TENNESSEE

Charles Ray Winton, Coalmont, Tenn., in place of A. R. Curtis, retired.

Raymond B. Cox, Cottagegrove, Tenn., in place of G. T. Wilson, transferred.

Charles W. Meals, Gibson, Tenn., in place of J. C. Hunt, deceased.

TEXAS

Arthur E. Tarver (Mrs.), Cotulla, Tex., in place of J. B. Kerr, deceased.

Elias F. Crim, Jr., Henderson, Tex., in place of A. A. Gary, retired.

Raymond J. Hruska, West, Tex., in place of J. D. Wilkinson, removed.

VIRGINIA

Carl C. Mason, Bridgewater, Va., in place of C. P. Graham, retired.

Robert L. Via, Roanoke, Va., in place of V. K. Wright, retired.

Harry L. Buston, Jr., Tazewell, Va., in place of Lois Hurt, retired.

James L. Kinzie, Troutville, Va., in place of E. L. Boone, deceased.

WASHINGTON

Jack Doty, Greenacres, Wash., in place of V. V. Edwards, retired.

Alice L. Green, Medina, Wash., in place of W. M. Hagenstein, retired.

WEST VIRGINIA

Edward Russell Peveler, Bradshaw, W. Va., in place of C. W. Maloney, removed.

WISCONSIN

Raymond E. Feller, Antigo, Wis., in place of C. N. Cody, retired.

Percy E. Braatz, Shiocton, Wis., in place of G. R. Miller, transferred.

WYOMING

Joseph H. Whitmore, Wheatland, Wyo., in place of J. C. Clark, deceased.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 13 (legislative day of March 6), 1956:

UNITED STATES TARIFF COMMISSION

William E. Dowling, of Michigan, to be a member of the United States Tariff Commission for the remainder of the term expiring June 16, 1957.

James Weldon Jones, of Texas, to be a member of the United States Tariff Commission for the remainder of the term expiring June 16, 1961.

UNITED STATES MARSHAL

James Warren McCarty, of Texas, to be United States marshal for the southern district of Texas for a term of 4 years.

HOUSE OF REPRESENTATIVES

TUESDAY, MARCH 13, 1956

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

Eternal God, our Father, in this moment of prayer we are again beseeching Thee to manifest Thy favor and grace unto all who have been entrusted with the responsibilities of leadership in the affairs of government.

Grant that we may always yield our finite minds to Thy divine mind and follow the ways which Thou hast marked out for us.

Inspire and constrain us to cleave with increasing tenacity of faith to the glorious assurances that Thou art our refuge and strength, a very present help in time of trouble.

May we daily grow in the knowledge of our Lord and Saviour, whom to know aright is life eternal. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Carrell, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3091. An act to amend the Rubber Producing Facilities Disposal Act of 1953, as heretofore amended, so as to permit the disposal thereunder of Plancor No. 1207 at Louisville, Ky.

RUBBER PRODUCING FACILITIES DISPOSAL ACT OF 1953

Mr. VINSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 3091) to amend the Rubber Producing Facilities Disposal Act of 1953, as heretofore amended, so as to permit the disposal thereunder of Plancor No. 1207 at Louisville, Ky.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia [Mr. VINSON]?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Rubber Producing Facilities Disposal Act of 1953, as heretofore amended, is amended by adding at the end thereof the following new section:

"SEC. 27. (a) Notwithstanding the second sentence of section 7 (a), the period for receipt of proposals for the purchase of the Government-owned rubber-producing facility at Louisville, Ky., known as Plancor No. 1207 and hereinafter referred to as the 'Louisville plant,' shall not expire until the end of the 30-day period which begins on the date of the enactment of this section.

"(b) If one or more proposals are received for the purchase of the Louisville plant within the time period specified in subsection (a), the Commission, notwithstanding the expiration of the period for negotiation specified in section 7 (f), shall negotiate with those submitting the proposals for a period of not to exceed 30 days for the purpose of entering into a contract of sale.

"(c) Within 10 days after the termination of the actual negotiation period referred to in subsection (b), or, if Congress is not then in session, within 10 days after Congress next convenes, the Commission shall prepare and submit to the Congress a report containing, with respect to the disposal under this section of the Louisville plant, the information described in paragraphs 1, 2, 3, 4, and 8 of section 9 (a). Unless the contract is disapproved by either House of the Congress by a resolution prior to the expiration of 30 days of continuous session (as defined in section 9 (c) of the Congress following the date upon which the report is submitted to it, upon the expiration of such 30-day period the contract shall become fully effective and the Commission shall proceed to carry it out, and transfer of possession of the facility sold shall be made as soon as practicable but in any event within 30 days after the expiration or termination of the existing lease on the Louisville plant. The failure to complete transfer of possession within 30 days after expiration or termination of the existing lease shall not give rise to or be the basis of rescission of the contract of sale."

SEC. 2. Notwithstanding the provisions of section 3 (d) of the Rubber Producing Facilities Disposal Act of 1953, the Rubber Producing Facilities Disposal Commission (hereinafter referred to as the "Commission"), before submission to the Congress of its report relative to the Louisville plant, shall submit it to the Attorney General, who shall, within 7 days after receiving the report, advise the Commission whether, in his opinion, the proposed disposition, if carried out, will violate the antitrust laws.

SEC. 3. Notwithstanding the provisions of section 4 of Public Law 336, 84th Congress, approved August 9, 1955, of section 4 of Public Law 19, 84th Congress, approved March 31, 1955, and section 20 of the Rubber Producing Facilities Disposal Act of 1953, the Commission established by the last-mentioned act shall cease to exist at the close of the 90th day following the termination of the review period provided for in section 27 (c) of that act, unless no sale of the Louisville plant is recommended by the Commission pursuant to section 27 (c) of that act, in which event the Commission shall cease to exist at the close of the 90th day following the termination of the maximum period allowed for negotiation in section 27 (b).

SEC. 4. (a) Notwithstanding the provisions of section 9 (d) and notwithstanding the period of lease limitation in section 9 (f) of the Rubber Producing Facilities Disposal Act of 1953, the Commission or its successor may, provided the period for receipt of proposals for the purchase of the Louisville plant has expired as provided in section 27 (a) of that act and no proposal or contract for the purchase of the Louisville plant is then pending or in effect, extend the existing lease or enter into a new lease on the Louisville plant for a term of not less than 5 years nor more than 15 years from the date of termination of said existing lease.

(b) Notwithstanding the provisions of sections 8 (a) (3) and 9 (f) of the Rubber Producing Facilities Disposal Act of 1953 relating to the period for review by the Attorney General, the Commission, before submission to the Congress of a lease or lease extension relative to the Louisville plant, shall submit it to the Attorney General, who shall, within 7 days after receiving the lease or lease extension, advise the Commission whether the proposed lease or lease extension would tend to create or maintain a situation inconsistent with the antitrust laws.

(c) Within 10 days after the termination of the lease negotiations authorized in subsection (a) of this section, or, if Congress is not then in session, within 10 days after Congress next convenes, the Commission shall report to the Congress the lease or lease extension negotiated pursuant to this section. The Commission shall submit at the same time the statement of the Attorney General approving the proposed lease or lease extension in accordance with the standard set forth in subsection (b) of this section, and the names of the persons who have represented the Government or lessee in conducting negotiations for the lease or lease extension on the Louisville plant. Unless the lease or lease extension is disapproved by either House of the Congress by resolution prior to the expiration of 30 days of continuous session (as defined in section 9 (c) of the Rubber Producing Facilities Disposal Act of 1953) of the Congress following the date upon which the lease or lease extension is submitted to it, upon the expiration of such 30-day period the lease or lease extension shall become fully effective and the Commission shall proceed to carry it out in accordance with its terms.

SEC. 5. Except as otherwise provided in this act, the disposal or lease of the Louisville plant shall be fully subject to all the provisions of the Rubber Producing Facilities Disposal Act of 1953 and such criteria as have

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been established by the Commisison in handling disposal of other Government-owned rubber producing facilities under that act: *Provided*, That the provisions of sections 7 (j), 7 (k), 10, 15 and 24 of that act shall not apply to the disposal or lease of the Louisville plant.

SEC. 6. (a) Notwithstanding any provision of the Rubber Producing Facilities Disposal Act of 1953, as amended, or of this act, the Rubber Producing Facilities Disposal Commission may enter into contracts of sale and may from time to time enter into leases for all or any part of the catalyst manufacturing equipment now situated in Baltimore, Md., and generally described in the Commission's brochure M–2 dated March 1954.

(b) Except as provided in this paragraph, each such lease or contract may be made on such terms and conditions, including type of use and duration (up to 15 years) of any lease, as the Commission deems advisable in the public interest. Before making such sale or lease, the Commission shall secure the advice of the Attorney General as to whether the proposed sale or lease would tend to create or maintain a situation inconsistent with the antitrust laws. Each such lease or contract of sale shall contain a national security clause, containing such terms and for such duration (10 years or less) as the Commission deems desirable in the public interest, and any such lease shall provide for the recapture of the equipment thereby leased and the termination of the lease, if the President determines that the national interest so requires.

The price for any part or all of such equipment shall be an amount which the Commission determines to be the maximum amount obtainable in the public interest, but not less than fair value as determined by the Commission.

(c) Any of such equipment not sold or leased under subsection (a) shall be placed and maintained in adequate standby condition pursuant to, and be otherwise subject to, the provisions of section 8 of the Rubber Producing Facilities Disposal Act of 1953 (other than the provision prohibiting leases).

(d) All the powers and authority conferred by this section upon the Commission may, after the termination of the existence of the Commission, be exercised by such agency of the Government as the President may designate for the purpose, and for this purpose such successor agency may exercise all the authority conferred in the Rubber Producing Facilities Disposal Act of 1953 upon the Commission.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING A STUDY LEADING TO THE ESTABLISHMENT OF A RESEARCH AND DEVELOPMENT PROGRAM FOR THE COAL INDUSTRY

Mr. SMITH of Virginia, from the Committee on Rules, reported the following privileged resolution (H. Res. 400, Rept. No. 1872), which was referred to the House Calendar and ordered to be printed:

Resolved, that the Committee on Interior and Insular Affairs, acting as a whole or by subcommittee, is authorized and directed to conduct a full and complete study on the possibilities of a research and development program for the coal industry of the United States. In particular, the committee or subcommittee shall seek to determine—

(1) whether or not there is a possibility of developing under existing law, a cooperative research venture in which the Federal Government, interested and affected State governments, as well as industry, labor organizations and private corporations might participate; and ascertain what part the agencies might play in a research and development program and in what fields Federal or State Governments might best cooperate;

(2) whether or not there is a possibility that an effective research program for coal might be developed in the same magnitude, and on the same general organizational basis, as those which have been and are now currently conducted by the Atomic Energy Commission, the National Advisory Committee for Aeronautics, the National Science Foundation, and similar groups;

(3) and investigate fields of research into which such a program might delve in order to accomplish the best and most expeditious results for an economic revival of the bituminous coal industry. Such fields of research should cover the general categories of coal production, coal transportation, coal distribution (market studies, and so forth), coal utilization in conventional forms, development of new and expanded uses of coal, including gasification, chemical production and a general appraisal of all coal technology;

(4) what progress has heretofore been made in the production of synthetic liquid fuel in the overall energy program and what advances in our present knowledge and skills with respect to the production of synthetic liquid fuel may be reasonably anticipated in the future; and

(5) whether the public interest would be served by the construction of a plant for the conversion of coal into a synthetic fuel to permit more rapid development of techniques for the production of synthetic liquid fuels, since it is inevitable that the exhaustion or conservation of other fuels will require synthesis fuels to assume major importance in supplying the energy requirements of the Nation in time of war and peace.

Economic projections of future industrial requirements are in general accord that, so far as the energy supply is concerned, greater dependency must be placed on coal which has the largest reserve of any of our known fuel sources. Paradoxically, the Federal Government is appropriating billions of dollars for research and development projects in the field of new energy sources, but little or no consideration is given to a study of the possibilities for wider utilization of coal.

The committee shall report to the House (or to the Clerk of the House if the House is not in session) as soon as practicable during the present Congress the results of its study, together with such recommendations as it deems advisable.

For the purpose of carrying out this resolution the committee or subcommittee is authorized to sit and act during the present Congress at such times and places within the United States, its Territories, and possessions, whether the House is in session, has recessed, or has adjourned and to hold such hearing as it deems necessary.

With the following committee amendments:

Page 1, line 3, strike out "and directed."
Page 3, strike lines 10 through 18.

ADJOURNMENT OVER

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Thursday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TAX RATE EXTENSION ACT OF 1956

Mr. COOPER. Mr. Speaker, by direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H. R. 9166) to provide a 1-year extension of the existing corporate normal-tax rate and of certain excise-tax rates.

The Clerk read as follows:

Be it enacted, etc., That this act may be cited as the "Tax Rate Extension Act of 1956."

SEC. 2. One-year extension of corporate normal-tax rate.

Section 11 (b) (relating to corporate normal tax), section 821 (a) (1) (A) (relating to mutual insurance companies other than interinsurers), and section 821 (b) (1) (relating to interinsurers) of the Internal Revenue Code of 1954 are amended as follows:

(1) By striking out "April 1, 1956" each place it appears and inserting in lieu thereof "April 1, 1957";

(2) By striking out "April 1, 1956" each place it appears and inserting in lieu thereof "April 1, 1957";

(3) By striking out "March 31, 1956" each place it appears and inserting in lieu thereof "March 31, 1957";

(4) By striking out "March 31, 1956" each place it appears and inserting in lieu thereof "March 31, 1957."

SEC. 3. One-year extension of certain excise-tax rates.

(a) Extension of rates: The following provisions of the Internal Revenue Code of 1954 are amended by striking out "April 1, 1956" each place it appears and inserting in lieu thereof "April 1, 1957"—

(1) section 4041 (c) (relating to special fuels);

(2) section 4061 (relating to motor vehicles);

(3) section 4081 (relating to gasoline);

(4) section 5001 (a) (1) (relating to distilled spirits);

(5) section 5001 (a) (3) (relating to imported perfumes containing distilled spirits);

(6) section 5022 (relating to cordials and liqueurs containing wine);

(7) section 5041 (b) (relating to wines);

(8) section 5051 (a) (relating to beer); and

(9) section 5701 (c) (1) (relating to cigarettes).

(b) Technicial amendments: The following provisions of the Internal Revenue Code of 1954 are amended as follows:

(1) Section 5063 (relating to floor stocks refunds on distilled spirits, wines, cordials, and beer) is amended by striking out "April 1, 1956" each place it appears and inserting in lieu thereof "April 1, 1957", and by striking out "May 1, 1956" and inserting in lieu thereof "May 1, 1957."

(2) Section 5134 (a) (3) (relating to drawback in the case of distilled spirits) is amended by striking out "March 31, 1956" and inserting in lieu thereof "March 31, 1957."

(3) Subsections (a) and (b) of section 5707 (relating to floor stocks refunds on cigarettes) are amended by striking out "April 1, 1956" each place it appears and inserting in lieu thereof "April 1, 1957", and by striking out "July 1, 1956" and inserting in lieu thereof "July 1, 1957."

(4) Subsections (a) and (b) of section 6412 (relating to floor stocks refunds on motor vehicles and gasoline) are amended by striking out "April 1, 1956" each place it appears and inserting in lieu thereof "April 1, 1957", and by striking out "July 1, 1956" each place it appears and inserting in lieu thereof "July 1, 1957."

Section 497 of the Revenue Act of 1951 (relating to refunds on articles from foreign trade zones), as amended, is amended by striking out "April 1, 1956" each place it appears and inserting in lieu thereof "April 1, 1957."

The SPEAKER pro tempore. Is a second demanded?

Mr. REED. Mr. Speaker, I demand a second.

Mr. COOPER. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COOPER. Mr. Speaker, I yield myself 5 minutes.

Mr. COOPER. Mr. Speaker, H. R. 9166 would extend for 1 year the existing corporate income tax rate and certain existing excise tax rates. I introduced the bill at the request of the President. The gentleman from New York [Mr. REED] introduced an identical bill, H. R. 9167.

The extensions provided by the bill cover the period April 1, 1956, through April 1, 1957. The existing 52-percent corporate income-tax rate would be extended by continuing the present normal-tax rate of 30 percent. A 5-percentage point reduction will occur on April 1, 1956, in the 30-percent normal-tax rate to which all corporate taxable income is subject unless the provisions of this bill become law. The present 22-percent surtax rate, which applies only to corporate income in excess of $25,000, is not affected by the bill.

The excise-tax rates which would be extended by this bill are scheduled to be reduced on April 1, 1956, and are applicable to certain alcoholic beverages, cigarettes, gasoline, automobiles, trucks, buses, trailers, automobile parts and accessories, diesel, and special motor fuels.

In ordering this bill favorably reported the Committee on Ways and Means was motivated primarily by the fiscal effects to be anticipated from the rate reductions scheduled to become effective on April 1 of this year. As you will recall, Mr. Speaker, the President requested the extension of the rates in question in his budget message where he stated:

> To reach a balanced budget in the fiscal year 1956 and in the fiscal year 1957 it will be necessary, in addition to continuing everyday efforts, to keep spending under control, to continue all the present excise taxes without any reduction, and the corporation income taxes at their present rates for another year beyond April 1, 1956.

The President's statement was amplified by the testimony of the Secretary of the Treasury, the Honorable George M. Humphrey, at the time of his appearance before the Committee on Ways and Means in executive session urging the 1-year extension.

The revenue effects of the 1-year extension will be to increase revenues from the corporate tax by $2.020 billion and that of the continuation of the present excise-tax rates to increase revenues by $1.166 billion, making a total full-year revenue effect an increase of $3.186 billion. The revenue effect on fiscal year 1956 from the continuation will be to increase revenues by $204 million and the effect on fiscal year 1957 will be to increase revenues by $2.142 billion.

The details as to the effects of continuing the corporate normal tax rate and the excise tax rates involved are set forth on page 2 of the committee report.

I will now summarize the major revenue effects of the bill.

First. Fiscal year 1956: It is expected that only the extension of the excise tax rates will have an effect on budget receipts in the fiscal year 1956. This follows because, under existing law, the excise tax rate reductions would become effective for the months of April, May, and June of the fiscal year 1956. Collections from the excise taxes affected are estimated at $204 million for these months. The corporate normal-tax reduction which would become effective on April 1, 1956, under existing law will not be reflected in receipts for the fiscal year 1956 because of an anticipated lag in corporate tax collections.

Second. Fiscal year 1957: Extension of the excise tax rates scheduled to be reduced on April 1, 1956, will produce approximately $962 million in budgetary receipts for the fiscal year 1957. In addition, extension of these rates will postpone until fiscal 1958 expenditures of approximately $200 million which otherwise would have to be paid out as floor stock refunds to dealers with respect to their inventories of distilled spirits, wines and beer, cigarettes, gasoline, automobiles, trucks, buses, trailers, and automobile parts and accessories.

Most of the revenue effect to be expected from extending the present corporate normal-tax rate will be reflected in collections for the fiscal year 1957, however, some effects will carry over into the fiscal year 1958. It is anticipated that the extensions proposed in the bill will result in corporate income-tax collections of $1.180 billion for the fiscal year 1957.

Third. Full year effect:

Extension of the present corporate normal-tax rate will increase revenues by $2.020 billion and the excise taxes by $1.166 billion, making a total full-year effect under the bill of $3.186 billion.

The President's budget estimates revenue receipts for the fiscal years 1956 and 1957 in the amounts of $64.5 billion and $66.3 billion, respectively. He estimates expenditures for those years as $64.3 billion and $65.9 billion. The surpluses thus reflected amount to $200 million for 1956 and $400 million for 1957. However, unless H. R. 9166 becomes law, a revenue loss of $204 million will result in the fiscal year 1956 and $2.342 billion in fiscal year 1957. In other words, the anticipated surplus for fiscal year 1956 would be wiped out and a deficit of over $2 billion would be created for the fiscal year 1957, a result that I am sure none of us wishes to contemplate.

The action of the Committee on Ways and Means in ordering H. R. 9166 reported was unanimous. I urge that the bill be passed.

Mr. REED. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this bill, H. R. 9166, extends for 1 year the present corporate income tax rate and the present tax on liquor and certain other excises. The rates of these taxes are otherwise scheduled for reduction on April 1.

If these taxes were permitted to go down on schedule, the Federal Government would lose over $3 billion in revenue when fully effective. President Eisenhower has recommended this extension in order to prevent such a substantial revenue loss at this time. I introduced a bill, H. R. 9167, to carry out his recommendation and I believe that the bill before us today should be approved immediately.

It would be unthinkable to permit a revenue loss of this magnitude at the present time. One of the greatest achievements of this administration has been the creation of a sound dollar. Inflation has been halted and the cost of living stabilized. This fact is of incalculable value to the average American and his family. We must at all costs prevent the resumption of an inflationary trend. The pending bill is necessary to the continued sound fiscal program of the Federal Government. It deserves the overwhelming support of the membership of this House.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the gentleman from Ohio.

Mr. JENKINS. I think this point is so important that even though the distinguished gentleman from Tennessee has already spoken about and you Mr. REED have spoken about it, I should like to make this observation: We do not in this legislation raise any new taxes. We do not exceed anything we have been doing. We simply by passing this legislation enable the Government through the proper authorities to collect exactly what they collected last year. There are no new taxes and no new kind of taxes involved.

Mr. REED. The gentleman is correct.

Mr. PROUTY. Mr. Speaker, although I favor H. R. 9166, I am opposed in principle to the passage of any major legislative proposal without full and adequate debate.

Therefore, Mr. Speaker, on the question of passing the bill under suspension of the rules I shall vote "No" as a means of registering my opposition to this kind of procedure.

Mr. O'HARA of Illinois. Mr. Speaker, I have always regarded the excise tax on amusements, travel, and the like, the activities that furnish relaxation to our people, as measures necessary in the sacrifice period when we are waging war, but not justified when we are on a peacetime basis. I hope that such taxes, which place, I think, an unfair burden upon the already heavily laden backs of our people, should be removed.

But under the circumstances I shall vote for this bill because it comes unanimously from certainly the hardest working committee of this body and one of the most conscientious. I know that many members of this committee probably share the thought that I have in this regard but they were in a position of listening to the testimony of everyone in knowledge and in interest, and theirs was the great responsibility of devising ways of raising the great sums of money that are needed for the conduct of our Government in this period of a most expensive peril. No matter whether we like it or not, no matter what sacrifices we are called upon to make,

we must keep this Republic strong to meet any dangers that an unfriendly hand may hurl at us.

I have great confidence in the distinguished chairman and members of the Ways and Means Committee. I know that when that committee unanimously reports a bill of taxation it must be accepted as the best solution that can be worked out in fairness for all our people and in the well-being and security of our Republic. Hence I shall vote for the bill, but take this opportunity of expressing my hope, as I think it must be the hope of many of my colleagues, that come another year we can relieve the little people of our country, the ordinary men and women and children, of the excise taxes that restrict them in the enjoyment of the periods of relaxation that by their hard work they have earned.

THE AUTOMOBILE—TAXES: TIME TO TAKE A CLOSER LOOK

Mr. RABAUT. Mr. Speaker, there is a motion before us today to provide for a 1-year extension of certain excise taxes. While we all realize the need for revenue to run a country of 165 million people, we should also not forget the old axiom, "The power to tax is the power to destroy."

It is my conviction that certain basic industries should be exempted from a continuation of this levy. The automobile industry, as a prime example, is going to be seriously impaired by passage of this measure in its present form. The situation we are faced with in the auto industry is this: Money is scarce—there have been slowdowns and cutbacks in Detroit recently that indicates the loose money is gone. People are tightening their belts; they are shopping very carefully these days—every dollar counts. This is especially true when it comes to buying a car. The average person investigates 5 or 6 dealers trying to reduce the purchase price just a few more dollars. To many, the additional expense of excise tax means no sale. A no sale in the dealer's showroom is felt in many segments of the Nation's economy. The auto industry is the biggest purchaser of steel, and steel is the economic yardstick. When the sale of steel falls off, the economists begin to worry.

I hope someday soon Congress will take a close look at the term "excise tax." The excise tax is designed to raise revenue from luxuries. Is the automobile a luxury today? It is not; it is an absolute necessity.

How much of the suburban growth of this country would we have without the automobile? Would you tell a man that his car which takes him to work—often the only way to get there—brings his children to school, takes his wife to the store, and does countless other chores is a luxury?

It is extremely difficult to get along without a car today and Congress should realistically consider removing automobiles from the luxury tax class.

Mr. COOPER. Mr. Speaker, I have no further requests for time on this side.

Mr. REED. Mr. Speaker, I have no further requests for time on this side.

The SPEAKER pro tempore. The question is on suspending the rules and passing the bill.

Mr. COOPER. On that question, Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 366, nays 4, not voting 63, as follows:

[Roll No. 16]

YEAS—366

Abbitt	Davis, Tenn.	James
Abernethy	Davis, Wis.	Jarman
Adair	Dawson, Ill.	Jenkins
Addonizio	Dawson, Utah	Jennings
Albert	Deane	Jensen
Alexander	Delaney	Johansen
Alger	Dempsey	Johnson, Calif.
Allen, Calif.	Denton	Johnson, Wis.
Allen, Ill.	Derounian	Jonas
Andresen, August H.	Devereux	Jones, Ala.
	Dies	Jones, Mo.
Andrews	Diggs	Judd
Anfuso	Dingell	Karsten
Arends	Dixon	Kean
Ashley	Dollinger	Keating
Ashmore	Dolliver	Kelley, Pa.
Aspinall	Dondero	Kelly, N. Y.
Auchincloss	Dorn, N. Y.	Keogh
Avery	Dorn, S. C.	Kilburn
Ayres	Dowdy	Kilday
Bailey	Doyle	Kilgore
Baker	Durham	King, Calif.
Baldwin	Edmondson	Kirwan
Barden	Ellsworth	Klein
Barrett	Engle	Kluczynski
Bass, Tenn.	Fallon	Knox
Bates	Fascell	Krueger
Baumhart	Feighan	Laird
Beamer	Fenton	Landrum
Becker	Fernandez	Lankford
Belcher	Fino	Latham
Bell	Fisher	LeCompte
Bennett, Fla.	Fjare	Lesinski
Bennett, Mich.	Flynt	Lipscomb
Berry	Fogarty	Long
Betts	Forand	Lovre
Blatnik	Ford	McCarthy
Blitch	Forrester	McConnell
Boggs	Fountain	McCormack
Bolling	Frazier	McCulloch
Bolton, Francis P.	Frelinghuysen	McDonough
	Friedel	McDowell
Bolton, Oliver P.	Fulton	McGregor
	Garmatz	McIntire
Bonner	Gary	McMillan
Bosch	Gathings	McVey
Bow	Gavin	Macdonald
Boykin	Gentry	Mack, Ill.
Boyle	George	Mack, Wash.
Bray	Gordon	Madden
Brooks, La.	Gray	Magnuson
Brooks, Tex.	Green, Oreg.	Mahon
Brown, Ga.	Gregory	Mailliard
Brown, Ohio	Griffiths	Marshall
Brownson	Gross	Martin
Broyhill	Gubser	Matthews
Buckley	Gwinn	Meader
Budge	Hagen	Metcalf
Burdick	Hale	Miller, Calif.
Burleson	Haley	Miller, Nebr.
Burnside	Halleck	Mills
Bush	Hand	Minshall
Byrd	Harden	Morgan
Byrne, Pa.	Hardy	Moss
Byrnes, Wis.	Harrison, Nebr.	Moulder
Canfield	Harrison, Va.	Multer
Carlyle	Harvey	Mumma
Carnahan	Hays, Ark.	Murray, Ill.
Cederberg	Hays, Ohio	Murray, Tenn.
Celler	Hayworth	Natcher
Chase	Healey	Nicholson
Chatham	Hébert	Norblad
Chelf	Henderson	Norrell
Chenoweth	Herlong	O'Brien, Ill.
Christopher	Heselton	O'Brien, N. Y.
Chudoff	Hess	O'Hara, Ill.
Church	Hiestand	O'Hara, Minn.
Clark	Hill	O'Konski
Clevenger	Hinshaw	O'Neill
Colmer	Hoeven	Ostertag
Cooley	Holifield	Passman
Coon	Holmes	Patman
Cooper	Holtzman	Patterson
Corbett	Hope	Pelly
Coudert	Horan	Perkins
Cramer	Hosmer	Pfost
Cretella	Huddleston	Philbin
Cunningham	Hull	Phillips
Curtis, Mo.	Hyde	Pilcher
Dague	Ikard	Pillion
Davidson	Jackson	Poage
Poff	Schwengel	Tuck
Polk	Scott	Tumulty
Powell	Scrivner	Udall
Preston	Scudder	Utt
Price	Selden	Vanik
Priest	Sheppard	Van Zandt
Quigley	Shuford	Vinson
Rabaut	Sieminski	Vorys
Radwan	Siler	Vursell
Rains	Simpson, Ill.	Wainwright
Reed, N. Y.	Simpson, Pa.	Weaver
Reuss	Sisk	Westland
Rhodes, Ariz.	Smith, Kans.	Wharton
Rhodes, Pa.	Smith, Miss.	Whitten
Richards	Smith, Va.	Wickersham
Riehlman	Smith, Wis.	Widnall
Rivers	Spence	Wigglesworth
Roberts	Springer	Williams, Miss.
Robeson, Va.	Staggers	Williams, N. J.
Robsion, Ky.	Steed	Williams, N. Y.
Rodino.	Sullivan	Wilson, Calif.
Rogers, Colo.	Taber	Wilson, Ind.
Rogers, Fla.	Talle	Winstead
Rogers, Mass.	Taylor	Withrow
Rogers, Tex.	Teague, Calif.	Wolverton
Rooney	Teague, Tex.	Wright
Roosevelt	Thomas	Yates
Rutherford	Thompson, Mich.	Young
Sadlak		Younger
St. George	Thompson, N. J.	Zablocki
Saylor	Thompson, Tex.	Zelenko
Schenck	Thomson, Wyo.	
Scherer	Thornberry	

NAYS—4

Crumpacker	Prouty	Wier
Mason		

NOT VOTING—63

Andersen, H. Carl	Green, Pa.	Nelson
	Harris	Osmers
Bass, N. H.	Hillings	Ray
Bentley	Hoffman, Ill.	Reece, Tenn.
Boland	Hoffman, Mich.	Rees, Kans.
Bowler	Holland	Riley
Cannon	Holt	Seely-Brown
Carrigg	Jones, N. C.	Sheehan
Chiperfield	Kearney	Sheeley
Cole	Kearns	Short
Curtis, Mass.	Kee	Sikes
Davis, Ga.	King, Pa.	Thompson, La.
Dodd	Knutson	Tollefson
Donohue	Lane	Trimble
Donovan	Lanham	Van Pelt
Eberharter	Machrowicz	Velde
Elliott	Merrow	Walter
Evins	Miller, Md.	Watts
Flood	Miller, N. Y.	Willis
Gamble	Mollohan	Wolcott
Granahan	Morano	
Grant	Morrison	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Walter with Mr. Holt.

Mr. Machrowicz with Mr. Sheehan.

Mr. Lanham with Mr. Seely-Brown.

Mr. Sikes with Mr. Carrigg.

Mr. Holland with Mr. Miller of Maryland.

Mr. Bowler with Mr. Reece of Tennessee.

Mr. Harris with Mr. Hillings.

Mr. Donovan with Mr. H. Carl Andersen.

Mr. Donohue with Mr. Bass of New Hampshire.

Mr. Morrison with Mr. Bentley.

Mr. Thompson of Louisiana with Mr. Osmers.

Mr. Willis with Mr. Ray.

Mr. Trimble with Mr. Short.

Mr. Elliott with Mr. Tollefson.

Mr. Evins with Mr. Hoffman of Michigan.

Mr. Granahan with Mr. Cole.

Mr. Green of Pennsylvania with Mr. Chiperfield.

Mr. Shelley with Mr. Hoffman of Illinois.

Mr. Watts and Mr. Kearney.

Mr. Grant with Mr. Kearns.

Mr. Riley with Mr. Van Pelt.

Mrs. Knutson with Mr. Merrow.

Mr. Dodd with Mr. Curtis of Massachusetts.

Mr. Davis of Georgia with Mr. Miller of New York.

Mr. Flood with Mr. Morano.

Mr. Eberharter with Mr. Nelson.

Mrs. Kee with Mr. Wolcott.

Mr. Boland with Mr. Gamble.
Mr. Lane with Mr. Velde.
Mr. Jones of North Carolina with Mr. Rees of Kansas.
Mr. Mollohan with Mr. King of Pennsylvania.

Mr. PROUTY changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. COOPER. Mr. Speaker, I ask unanimous consent that the enrolling clerk in engrossing the bill H. R. 9166 be instructed, on page 3, line 12, to strike out the comma after "1957."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

GENERAL LEAVE TO EXTEND

Mr. COOPER. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their remarks in the RECORD on the bill just passed prior to the vote.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. BOLAND. Mr. Speaker, when the rollcall on H. R. 9166 was called, I was unavoidably detained in another part of the Capitol. Had I been there, I would have voted for this bill. At that time, I was in conference with the offices of the distinguished Senators from Massachusetts, Hon. LEVERETT SALTONSTALL and JOHN F. KENNEDY, relative to a problem that seriously affects my area. The problem arises from the announced action of the Department of Defense in drastically reducing the number of employees at the Springfield Arsenal.

Mr. Speaker, the Springfield Arsenal has been the center of the production of small arms for our fighting forces for a long period of years. It has been the top research and development spot in the Nation for weapons manned by the foot soldier. The best of the infantry rifles have been developed and produced at this great armory. The firepower of our fighting men has been increased considerably because of the inventions conceived there.

The Garand rifle, commonly known as the M–1, is recognized by the military men as the best shoulder piece that has ever been developed. This rifle is the brainchild of a longtime, faithful employee of the Springfield Arsenal, Mr. John Garand. The number of years that the armory has been in western Massachusetts has given rise to a corps of exceptionally skilled workmen in the delicate and exacting job of rifle making. Their essentiality to the national defense is a conclusion that cannot be rebutted. In my opinion and in the judgment of more competent authorities, this Nation cannot afford to lose their services. This reservoir of highly skilled, efficient, capable Government personnel should not be allowed to shrink to a point that endangers any effort, which could easily arise in the face of the world situation, to hastily bring it into action.

The people of my district are very disturbed over the impact of reductions in force that are taking place, and the effect this will have on the community. A mass meeting protesting such action was held last Saturday, at which I was present, and the consensus of workers and citizens alike was that such workforce reductions at the armory not only threatens the livelihood and security of veteran employees, but poses an equally serious threat to national defense. I need not tell the Congressmen that New England has suffered from unemployment. It is our intention to get the Department of Defense to channel work there over and above the small arms work done at the Springfield Armory and Watertown Arsenal.

Great reductions in arsenal strengths occur in Massachusetts. Figures indicate that there is discrimination. A real all-out effort by the Department of Defense should result in different work being channeled to Springfield.

It is inconceivable that good, hardheaded businessmen would allow a plant, so well equipped by skilled men and good material, to deteriorate. The needs of the Armed Forces should be appraised and every effort made to direct work to the armory. I do not agree with the stated policy of the Secretary of the Army that Springfield Armory is to be utilized as a small arms center only. I am convinced that its mission should be broadened. The best interests of the Nation and the taxpayer would be served by enlarging its job. I am not in agreement with the policy of the Department of Defense to get the Government out of business—out of all business. In the field of armaments, the Government has a real, legitimate and moral interest. I am convinced that where there are going production facilities run by departments of the Federal Government and where these facilities have proved their worth, efficiency and price, they should be used to the utmost in the development and production of those weapons of war where the Federal Government is the only purchaser.

The Springfield Armory has proved its worth to the Nation. I ask that its past performance and future potentialities be recognized by the Department of Defense.

COMMITTEE ON PUBLIC WORKS

Mr. DEMPSEY. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may sit during the session of the House today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

TOWNSEND PLAN

Mr. RHODES of Pennsylvania. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RHODES of Pennsylvania. Mr. Speaker, on July 18 of last year I obtained a special order at which time the need for enactment of legislation embodying the Townsend plan was discussed. The names of more than 60 cosponsors of H. R. 4471 and H. R. 4472 were listed. All have joined Representative JOHN A. BLATNIK and Representative CHARLES S. GUBSER, who introduced the two bills.

In my remarks last July I gave statistics to show the severe income squeeze which our aged people have been subjected to in recent years. Since then, a study by the Twentieth Century Fund has revealed the fact that about three-fourths of the people 65 years of age or over have less than $1,000 income a year. Over one-third of this group have no income whatsoever. The income status of the senior citizens of our Nation is growing steadily worse instead of better. Only 1 out of every 3 persons 65 years of age or older is covered by social security. Benefits are pitifully small in terms of modern costs and living standards. Many millions of these people are trying to exist on old-age assistance which averages only $52.50 a month throughout the Nation.

Mr. Speaker, this is a shocking record of shame and neglect of our old folks who gave the best years of their lives in helping to build our modern industrial and economic system, which has given this Nation a level of production and standard of living unsurpassed in the history of the world. It is tragic that these people have been denied a fair share of the abundance which they in their lifetimes have helped to create. That is why the supporters of the Townsend plan legislation have been urging that something more be done in this field of assistance to the senior citizens of this Nation.

A discharge petition on H. R. 4471 is being filed today by Representative BLATNIK. The need for action in doing something realistic to meet the needs of our elderly citizens is critical. Each year new inventions, new methods such as automation are being introduced into our factories. Everything points to a reduction in the workweek as new labor-saving machines are introduced. Many of our older workers will soon be retiring and joining the 14 million folks now over age 65.

Unless we can find a way to increase our consumption of goods commensurate with our ability to produce, we shall again be faced with a certain slowdown of production to prevent our being smothered by surpluses. The obvious and desirable way to prevent this log-jam of goods is to increase our ability to buy and consume. By increasing the purchasing power of our economically depressed elderly population, this objective can and must be reached. H. R. 4471, the Townsend plan, is designed to meet this problem directly. It is not a new plan but with each passing year it becomes increasingly apparent that it contains the answer to this most pressing social and economic problem. We must face up to this problem and our responsibilities.

Mr. Speaker, I urge all of my colleagues who are sincerely concerned with the economic plight of our old folks to sign this discharge petition to bring H. R. 4471 to the House floor. Let us have open discussion and action by the members of this proposal. It will be the first step toward the realization of an adequate pension program and a more decent living standard for our retired citizens.

CIVIL-RIGHTS PROGRAM

Mr. BARRETT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. BARRETT. Mr. Speaker, as the Representative in Congress from the First District of Pennsylvania, I am once again appealing for speedy enactment of legislation to insure a proper and just and workable civil-rights program.

The Attorney General of the United States is in the process of preparing a new civil-rights program for submission to the Congress in the immediate future and in view of the several unjust and unwarranted incidents that have occurred during the past year, I sincerely hope this membership will give careful consideration to Mr. Brownell's proposal and enact into law those points of the program that will be beneficial to our colored citizens.

As you know, I represent south Philadelphia, and for the past 10 years have devoted a major portion of my time and efforts to my Negro constituents. I have attended numerous meetings with my colored friends and have helped a great many of them with their personal problems. However, an individual Congressman can do only so much and although I have repeatedly supported all civil-rights legislation and have introduced numerous bills to safeguard and strengthen the rights of the Negro, I regret to say little has been done to accord them their rightful heritage.

Our Nation was founded on the principle that all men are created equal, but the vicious attacks made against the colored people in recent months breeds doubt.

We are known as a peaceful nation and have led other countries and peoples to believe this is so, but how can they be convinced and believe in our sincerity when animosity exists between our races. Our newspapers, magazines, and radio broadcasts, while reporting the truth, certainly must give our adversaries the chance they seek to deride our ideals.

During my many conversations with various Negro groups and individuals in Philadelphia during the past 2 weeks, I have attempted to explain why the Congress is so slow to act on the pending civil-rights proposals. The answer most of them give me is, "Why?" I am sorry to say here today that I cannot give them a plausible or satisfactory answer. Can you?

Mr. Speaker, I know you have the welfare of the Negro at heart and are as concerned as I am over the most recent clash. Surely a solution can be found to prevent a reoccurence of these shameful and disgusting episodes and I appeal to you and the Members present today for help and a solution.

I am pleased to say that great strides have been made in recent years to improve the living and working standards of the Negro people and for this they are grateful. However, this is not enough. They must be made to feel they belong to the human race and are wanted. After all, are not they as Americans entitled to the same rights and privileges we enjoy?

Without exception, the colored folk in my district are honest, hard working people who only want the chance to earn a decent living and enjoy the benefits they derive from their labors. They are law abiding citizens who live according to the word of God. If they are permitted to worship as they please and are accorded equal treatment by the Federal Government insofar as employment opportunities, promotions, and so forth are concerned, why is it so difficult to solve the other related problems. It seems to me their basic rights have been recognized and I sincerely believe it is high time we accord them their rightful place in our complex society.

During World War II and the Korean conflict, the Negroes fought side by side with the whites. Our colored soldiers laid down their lives without hesitation because they too believed in freedom. Surely God made no distinction when he beckoned. Our enemies did not discriminate and say, "Let's just shoot the white ones" or "Today we have orders to kill the colored ones." No indeed, the enemy was instructed to kill all Americans regardless of race. They recognized equality and so should we.

It has been said that we, as individuals, have been put on earth for a purpose and that each of us has a mission or appointed task to complete before death. What greater service could we, as representatives of the peoples of the United States, render than to bring about a harmony of the races.

In my opinion, to achieve this we must enact the perfect civil rights program. Of course, the one factor against such a program is time and I know the Negro race is well aware that a program of this magnitude cannot be enacted today—or tomorrow, but we at least can lay the basic groundwork now and steadily build a solid foundation.

Mr. Speaker, and Members of this body, I beg of you to read my message and in your own individual way support and work for the betterment of our minority races through a decent and just civil rights program.

TOWNSEND PLAN BILL

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I wish to commend Representative BLATNIK and Representative GUBSER, and their cosponsors, for their wise decision to file a discharge petition at this time on behalf of the Townsend plan bill, H. R. 4471.

It is my earnest conviction, Mr. Speaker, that we have been entirely too cautious in our approach to the problem of social security. We know today that social-security benefits financed through taxes collected for the purpose by the Federal Government are in no respect burdensome to the economy. In fact, quite the opposite has proven to be the case. Such benefits are clearly judged today as being essential in preventing the decline of our citizens' buying power upon reaching old age.

We have tremendous numbers of our citizens, however, whose buying power has been disastrously curtailed because we have not provided a social-security system which included them in its provisions. It would be a great harm to our national welfare, in my opinion, to continue this state of affairs.

Let us bring out this Townsend plan bill and get to work establishing a social-security system which will properly solve the problem for all of the American people alike. Then buying power would be stabilized at prosperous levels and every business and all labor in the Nation would be greatly benefited.

We cannot continue to shorten the working span of life and lengthen the old-age span of life unless we provide the means for our citizens to have fully adequate buying power in their old age.

We have no reason to delay longer. I hope the Members will forthwith complete Representative BLATNIK's petition and bring the Townsend bill to the floor.

ARMS FOR ISRAEL IN UNITED STATES SELF-INTEREST

Mr. CELLER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CELLER. Mr. Speaker, Great Britain feeds the Egyptians heavy arms, including Centurian tanks. Russia supplies jets to Egypt and Syria.

United States supplies arms to Saudi Arabia and Iraq.

Now Sweden sends arms to Egypt.

All these Arab countries are bent upon Israel's destruction. Israel stands alone, isolated, boycotted, surrounded by well-armed enemies. All we give is sympathy. But kind words will not resist tanks and jets.

U. N. aid is unrealistic and would be too late for a sneak attack and extermination.

U. N. is not a policeman to prevent, but a fireman called after the conflagration.

Israel wants to defend herself.

You may as well try to make a camel jump a ditch as to put sense into the administration, which refuses to allow Israel to wield her own weapons for her own survival.

It is patently plain that with Communist infiltration into that region of the world, the self-interest of the United

States and the free world demands that Israel be in the best position to defend herself. Arms and pacts have been an integral part of our foreign policy in the defense of the free world. How come the policy stops short at the borders of Israel, a free, democratic country?

In 1948 Israel, all alone, fought off seven hostile Arab nations who converged on her in all directions. U. N. looked on helplessly. The Arabs, defeated, came running to the U. N. which then intervened to bring about a truce. Had the Arabs won, the U. N. would have then washed its hands of the affair.

I do hope, indeed, that the pressure from this House and from other sources will cause sense to become the watchword of the administration so that arms will be sent to Israel by the United States.

TAKING CARE OF OUR ELDERLY PEOPLE

Mr. BLATNIK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. BLATNIK. Mr. Speaker, I believe that we are all thankful that we have done the things we have done in this country about the problem of social security. I, for one, cannot imagine how horrible the plight of our elderly people would be today if it were not for the support they are receiving because of these things we have done.

However, Mr. Speaker, it is time for us to face up to one very harsh fact. All efforts in the area of social security—including private systems as well as public ones—have failed to make an actual dent in the real problem of bettering the comparative economic position of our elderly people as a group. Statistics conclusively demonstrate that we have failed sadly, since the end of World War II, to increase the comparative share of income received by our older people as a total group. At the same time, the number of elderly folk is increasing at a rate between 3 and 4 times that of the younger adult population. This problem must be solved or the result will be catastrophic for our economic future by progressively destroying our people's buying power.

I see clearly that it will prove of no avail to increase our people's living and income standards during their working years if we permit this expanding deficiency during their older years to go on growing in its force. It is time we thought about bettering and improving their position. It is to this end that I introduced H. R. 4471, which embodies pay-as-you-go provisions. Today I filed a discharge petition in favor of H. R. 4471. I feel that it is a problem for full study by all of us. I sincerely hope that we will bring this bill speedily to the House floor for full consideration and action. It will enable us to make of our social-security system the great force for good and prosperity that it should be.

TOWNSEND PLAN BILL

Mr. BLATNIK. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. GUBSER] may address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. GUBSER. Mr. Speaker, I completely approve of the decision by Representative BLATNIK, of Minnesota, and the sixty-odd cosponsors in the House of the Townsend plan bill to file a discharge petition to bring H. R. 4471 to the floor.

We have a social-security system in the form of old-age and survivors insurance and public assistance which has done a great deal of good, as far as it has been effective. However, Mr. Speaker, our system for the last 20 years has been a discriminatory one, and it remains a discriminatory one. OASI discriminated by denying coverage to countless millions of people both old and young. Many of these discriminations of coverage have been recognized as wrongs and corrected by extensions of OASI coverage for the future; but not in respect to the already elderly people who had no chance to qualify under covered employment. This has been a serious injustice; indeed, an indefensible injustice. Instead of being treated in the same way as others, these elderly people were consigned to the system of public assistance, made subject to all manner of restrictions and humiliations in order to qualify for any relief. On the other hand, those privileged to be qualified under OASI have benefit rights with no such restrictions or humiliations. Even a very wealthy person can qualify for OASI benefits, whereas the old-age assistance requires poverty for the individual as the very basis of its benefits. Oldsters under OASI can earn at least $1,200 a year with no curtailment of benefits; the OAA people must sacrifice benefits fully equal to every last penny they might earn. This, Mr. Speaker, constitutes a disgraceful picture of discrimination that has no place by any view in the United States of America, of all places.

We have no reason whatever to expect that these shameful discriminations can be remedied under the present system. Therefore, I believe that H. R. 4471, which completely abridges all discriminations between citizens, should be brought to the floor and given every consideration by the House.

Mr. O'HARA of Illinois. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. O'HARA of Illinois. Mr. Speaker, I commend the distinguished gentleman from Minnesota [Mr. BLATNIK] for the effort he is making to bring a little more sunshine into the lives of the aged men and women of our country. The number of the aged is increasing rapidly. We have done something to make their lives more endurable and more comfortable. But we have not done all that conscience and duty command. I think it is time that the matter should be brought to the floor of this House in order that we can examine more thoroughly and with a bolder approach into the problem of securing old age from the distresses that now encompass it.

To this end I have signed the discharge petition and I urge upon my colleagues to do likewise. The 84th Congress can go down in the history of our country as one of the greatest, and its memory beloved by succeeding generations, if from this Congress comes forth a bill giving to those approaching age an abiding sense of security and to those who have reached the western slopes a material and a spiritual enrichment such as never before have those burdened the years enjoyed.

H. R. 4471 presents to us a challenge. Let us, remembering the prayer for divine guidance of our beloved Chaplain, the Reverend Bernard Braskamp, accept the challenge.

Mr. Speaker, I cannot close my remarks without paying a tribute of appreciation and affection to Dr. Townsend. I shall never forget how in a time of the distress of depression old men and women were rejuvenated by the suggestion of Dr. Townsend that in a rich country money could be provided for their every comfort and that their sole mission in life would be contributing to the buying power of the Nation by spending each month what they received in monthly payments sufficient for their comfortable sustenance. What we need is buying power, and what more Divine concept than that of leaving to the workers in youth and in prime the toils and giving to the aged the opportunity of spending money necessary for their comfort and thus supplying the buying power to keep going the basis of employment for the workers.

The distinguished gentleman from Minnesota [Mr. BLATNIK] has rendered many great services to his constituents, his State, and his country. None has been greater than the service he is rendering today. I imagine that tonight when what he is doing here today spreads throughout the Nation a million eyes of old men and women will light as though upon them had fallen the magic wand restoring youth.

SCHOOL MILK PROGRAM

Mr. LAIRD. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. LAIRD. Mr. Speaker, 16 million school children in over 63,000 schools in the United States are depending upon this Congress for immediate action on H. R. 8320. The school milk program will collapse unless this Congress insists upon immediate action on H. R. 8320. This legislation has unanimously passed both the House and Senate but is now in conference to settle the differences between the Senate-passed bill and the House-passed bill. The House should accept the Senate amendments and stop

the ridiculous stalling on this important program.

There are 19 States in which school milk program funds are running out at the present time. If the milk program is stopped in these 19 States, we will never be able to get it off the ground again. I have repeatedly brought this matter to the attention of the House Agriculture Committee and was informed only yesterday that not a single meeting has been held by the House and Senate conferees. It would only take the conference committee 5 minutes to meet in order to agree to the Senate amendments.

In this same bill, H. R. 8320, there are included funds for the brucellosis eradication program. These funds are immediately needed in 22 States for the remaining part of this fiscal year and in order to plan the program in each of the 48 States for fiscal year 1957. If the program of brucellosis eradication is curtailed, it will mean the waste of many millions of Federal tax dollars. The brucellosis program has started and this dreaded cattle disease is on the run. If this program is stopped, it will only mean that the funds thus far expended will have been in a large measure wasted. The program will be successful only by carrying it forward to completion and complete eradication.

The following States will have to stop the school milk program as of April 1 unless this bill is acted upon before that date: California, Delaware, District of Columbia, Illinois, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Washington, and Wisconsin. These States are in immediate need of funds. The following States will have to stop the program on May 1 unless this legislation is immediately acted upon: New York, New Jersey, Rhode Island, Ohio, and Pennsylvania.

These funds are absolutely needed and necessary now. Let us stop stalling and get this legislation passsed.

GIRL SCOUTS OF AMERICA: A PROUD AND GROWING ORGANIZATION

Mrs. FRANCES P. BOLTON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Mrs. FRANCES P. BOLTON. Mr. Speaker, this week the Girl Scouts of the United States of America celebrate the 44th anniversary of their founding. What a proud heritage they have.

Since their founding in 1912 by Juliette Gordon Low, they have held fast to the ideal that this should be an organization where all girls could find a common ground which would help them prepare to live, work, and play happily and successfully with their neighbors.

Today the Girl Scouts stand 2 million strong with the active backing of more than 600,000 devoted men and women. They are a growing family, ever increasing their contribution to community life in America.

In my own State of Ohio, Girl Scouting has made exceptional progress. Membership rose to 123,000 in 1954, the latest year for which figures are available. This was an increase of 19 percent over the previous year, compared with a 14 percent increase for the country as a whole.

I have been told that Girl Scout interests last year reflected the growing importance of homemaking, always the most popular of the 11 program fields in which girls may work for proficiency badges. During 1955 Intermediate Girl Scouts, 10 through 13 years old, earned nearly 624,000 badges in the homemaking field. Of these, 177,000 were the cook badge, for which girls learn cookery, nutrition and preparation of sitdown or picnic meals. Second in popularity was the Homemaker Badge, for which 97,000 girls qualified by acquiring a broad range of housewifely skills. Third in popularity was the Hospitality Badge, earned by 91,000 girls who studied and practiced the varied skills of both hostess and guest, including the etiquette of informal social gatherings.

Throughout the year, more than 900,000 Intermediate Girl Scouts qualified for 2,200,000 badges. It has been estimated that it takes 3 months or more to complete work for a badge. And before it is awarded, the girl is in most cases required to use her new skills in some type of service for the welfare of others.

This is an organization which teaches each young woman that she is an individual and that respecting the rights of an individual is an American ideal. But she also learns the importance of accepting community responsibility and of sharing her experiences with others. I am proud to offer my congratulations to the Girl Scouts on their 44th anniversary.

HELP FOR THE AGED

Mrs. BLITCH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentlewoman from Georgia?

There was no objection.

Mrs. BLITCH. Mr. Speaker, nearly 170,000 needy Georgians on public assistance rolls can be better fed and clothed; farm surplus can be put to a beneficial use, and local stores can have more business. This is the objective of the bill H. R. 9896, which I am introducing today.

It is the purpose of my bill to provide supplementary benefits for individuals receiving assistance under the programs of old-age assistance, aid to dependent children, aid to the blind and aid to the permanently and totally disabled provided for in titles I, IV, XI, and XIV of the Social Securtiy Act.

Provision is made also for assisting recipients of public assistance outside the Federal programs. Food-fiber certificates would be provided for needy individuals who received assistance from any State or political subdivision thereof. For this latter group all that is required is that the Secretary of the Health, Education, and Welfare Department enter into agreements with the welfare or public assistance agency, under regulations to be prescribed by the Secretary of Health, Education, and Welfare.

Based on figures furnished to me by the Department of Health, Education, and Welfare, Mr. Speaker, the approximate number of persons, nationally, who would be eligible under my bill are as follows:

Persons who receive Federal assistance under titles I, IV, XI, and XIV of the Social Security Act (December 1955)

Old-age assistance	2,552,832
Aid to dependent children	2,193,215
Aid to families caring for dependent children (only one member of family is assisted)	602,789
Aid to blind	104,858
Aid to other disabled	244,007
Total	5,729,000

PERSONS RECEIVING ASSISTANCE FROM STATES OR THEIR POLITICAL SUBDIVISIONS

My estimate as to the number of persons who may be eligible for food certificates as provided under section 5 (a) (4) of my bill is 1 million; grand total, 6,729,000.

Mr. Speaker, the following individuals in the State of Georgia would be eligible for assistance under my bill. The total number is, of course, included in the national estimate.

Georgians receiving public welfare assistance (individuals) (December 1955)

Federal assistance involved:	
Old-age	98,519
Aid to dependent children (individuals, children, and adults)	53,936
Aid to blind	3,415
Aid to other disabled	11,154
State or local assistance (non-Federal participation)	2,505
Total	169,579

Number of persons in Eighth District who will be benefited by my bill:

Old-age assistance	7,545
Aid to dependent children (including the one adult)	6,287
Aid to blind	357
Aid to other disabled	1,063
General assistance (State and local funds—392 cases—based on 2.3 people to each case)	900
Total	16,152

All eligible individuals would be provided food-fiber certificates in addition to their current monthly assistance. Certainly, no member of the House of Representatives would want to cut present public assistance benefits now or in the future. Food-fiber certificates should always be supplemental to current levels of public assistance.

Enactment of my food-fiber certificate plan would increase the purchasing power of the approximately 6,250,000 persons eligible by $120 per year because each person would be entitled to certificates valued at $10 for each month. The certificates would be valid only with respect to purchases made during the month for which they are issued.

My food-fiber certificate bill would first give assistance to the Nation's and my own district's neediest families; second, it will help farmers because it paves

the way for expanded consumption of food and fiber. It probably will mean eliminating the need for further acreage reduction in such crops as cotton and peanuts. It will, I believe, aid materially in the utilization of our present food stocks. This will be using food in the right way and, coupled with the maintenance of existing levels of production, farm income will be increased.

A food-fiber certificate plan such as my bill provides for will also increase the volume of sales of mercantile establishments, food and fiber handlers, merchants, and their employees, both at wholesale and retail levels, will benefit because the food-fiber certificate plan specified in my bill will operate through normal marketing channels.

I want to call attention, Mr. Speaker, to the fact that this bill does provide for certificates to be expended for cotton articles. I believe that persons eligible under provisions of my bill have need for articles made from agricultural fiber such as cotton and wool, just as they do the various products processed from the food commodities which would be named by the Secretary of Agriculture under section 4.

Mr. Speaker, hearings have been held on a similar proposal, introduced by Senator ROBERT S. KERR, as an amendment to H. R. 7225, the social-security bill passed last year by the House of Representatives. I understand there is widespread support for a food-fiber certificate plan in the Senate. It is my hope that the members of the Senate Finance Committee will approve the amendment to H. R. 7225 and that this bill will be favorably reported to the Senate floor.

It is my hope, too, that hearings may be scheduled in the House Ways and Means Committee on my bill. Hearings were held last year on food-stamp proposals in a subcommittee of the House Agricultural Committee. Concern was expressed at that time over the cost of a food stamp or certificate plan being charged to the farmers' price-support program. Vesting the authority for administration in the Health, Education, and Welfare Department as in this bill will eliminate this concern on the part of members of the House Agriculture Committee.

Secretary Benson has used the matter of so-called surpluses to arous consumer resentment against adequate farm price supports. If he would do something to utilize the surpluses, maybe he will give us some cooperation to help get a food-fiber certificate plan passed by Congress.

Secretary Benson's sliding scale program has depressed prices. But of even more concern to me, his sliding scale program has actually increased production, as farmers have tried to raise more and more to make financial ends meet.

I strongly believe that the answer to helping farm families lies in firm adequate price supports and in other programs to put overproduction of agricultural commodities to good use. One of the best ways to use our blessed abundance is to provide additional benefit to our old people, helpless children, and others on assistance rolls who do not have sufficient purchasing power to buy adequate food and clothing.

SPECIAL ORDER GRANTED

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that after all other special orders today, I may address the House for 30 minutes and revise and extend my remarks and include therewith extraneous material.

The SPEAKER pro tempore. Is there objection?

There was no objection.

EXPLANATION OF VOTE

Mr. QUIGLEY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. QUIGLEY. Mr. Speaker, if my colleague the gentleman from Pennsylvania [Mr. GREEN] had been present today he would have voted the same as I did on the excise-tax extension bill. Unfortunately, the gentleman from Pennsylvania [Mr. GREEN] is grounded at the airport in Harrisburg, Pa., and I would like to have this noted for the RECORD.

DETROIT AIRPORT

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Michigan [Mr. LESINSKI] is recognized for 10 minutes.

Mr. LESINSKI. Mr. Speaker, the metropolitan area of Detroit, roughly, 4 million people, does not have an adequate air terminal.

It seems that, in spite of the present airport, action is being stopped to transfer airline activities from Willow Run to Wayne Major. A lot of reports of action to date have been misleading, and they have purposely been misconstrued. The result is that the plan has been held up, and at the present date no action is contemplated.

The military is seeking Willow Run—the Air Force, the Navy, and the Air National Guard.

Mr. Speaker, because of the influence of politics, our national defense is suffering for the lack of facilities, and because existing facilities are not being used properly as recommended to become effective to the maximum extent.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. MEADER. Mr. Speaker, reserving the right to object, will the gentleman yield?

Mr. LESINSKI. Yes; I am glad to yield.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. MEADER] reserve the right to object or ask the gentleman from Michigan to yield to him?

Mr. MEADER. Both.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. MEADER] reserves the right to object.

Does the gentleman from Michigan [Mr. LESINSKI] yield?

Mr. LESINSKI. I yield to the gentleman.

Mr. MEADER. I wish to know whether in the remarks the gentleman asked to insert in the RECORD there is any reference to any Member of Congress?

Mr. LESINSKI. I may state for the information of the gentleman from Michigan that there is no definite reference to any Member of Congress.

Mr. MEADER. I would like to ask the gentleman whether the remarks he has asked to insert in the RECORD makes any reference to the gentleman from Michigan who is now addressing him.

Mr. LESINSKI. I did not.

I shall read the remarks to the gentleman.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. LESINSKI] withdraw his request to extend his remarks?

Mr. LESINSKI. Mr. Speaker, I withdraw my request to extend my remarks at this time.

I will read the remarks to the gentleman.

Mr. Speaker, last November the President's Airport Use Panel issued a report on airport conditions in the Detroit area in which it was recommended that commercial air activities be transferred from the Willow Run Airport at Ypsilanti to the Detroit-Wayne Major Airport and that military air activities be centralized at Willow Run.

I have written to the Secretary of Defense requesting that he take immediate steps to implement the recommendations of the Airport Use Panel by exercising the Government's right by virtue of the present emergency to take possession of the Willow Run Airport so that the military services can have use of the field as their needs demand.

If no action in this regard is taken within a relatively short time, it will be obvious that some agency heads of the Federal Government are disregarding the President's own Airport Use Panel which is composed of experts for the express purpose of solving such problems.

It will be obvious that the heads of Capital Airlines can reach certain people and go over the heads of our various agencies that have unanimously recommended that commercial airlines move from Willow Run to Detroit-Wayne Major Airport. The collusion between Capital Airlines and the University of Michigan to hold up a matter which will benefit a metropolitan area of four million people is an affront to a community that pays into the national treasury above-average taxes.

Of course you can see why Capital Airlines is acting as it is. We, as taxpayers, have built Willow Run. And we, as taxpayers, are continuing to pay the larger portion for the airlines' use of Willow Run. Imagine the airlines presently paying only $38,000 for the use of Willow Run, whereas they should be paying out approximately $2 million annually for an air terminal which would be comparable to the one at San Francisco.

Capital Airlines bought from the Federal Government for a song the planes

that built Capital Airlines to what it is. Capital Airlines has been subsidized for many years by the Federal Government. Its officials are now trying to continue on the present gravy train and we, as taxpayers, are footing the bill. Mind you, we in America produce aircraft far superior to any, yet Capital Airlines goes to England to purchase new planes. Here we subsidize Capital, make it what it is, and its officials show total disregard for their benefactors.

Let us not allow misinformation or sanctimonious statements about honest intents sway us. Why will ANSCO not allow the mayor of Detroit, the Airport Use Panel, the common council, or the board of supervisors examine their financial records.

When one Congressman can say for 4 million people what airport they are to be served from, some definite action should be taken.

Mr. MEADER. Mr. Speaker, will the gentleman yield?

Mr. LESINSKI. I yield to the gentleman from Michigan.

Mr. MEADER. May I ask the gentleman whether or not when he refers to one Congressman he is referring to the gentleman from Michigan who is now addressing the question?

Mr. LESINSKI. Not necessarily so. The gentleman will recall seeing in the papers recently about certain contradictions in reference to the transfer of the Air Force bases in Michigan from one place to another and to God knows where.

Mr. MEADER. The gentleman is speaking about 4 million people in the metropolitan area of Detroit. I assume when he speaks about only 1 Congressman, he cannot have 2 in mind.

Mr. LESINSKI. The gentleman evidently has a guilty conscience.

Mr. MEADER. I would like to take credit for advocating what 4 million people want to do, if the gentleman is referring to me. I think that is a very flattering observation.

Mr. LESINSKI. The gentleman has taken upon himself the fact he is guilty. The gentleman has also been active in spite of the fact he serves a district that has very little to do with the surrounding area directly involved, Wayne County, and is endeavoring to be responsible.

Mr. MEADER. Will the gentleman answer the question whether he has me in mind?

Mr. LESINSKI. The gentleman has answered the question.

Mr. MEADER. The gentleman does have me in mind?

Mr. LESINSKI. The gentleman has answered the question.

Mr. Speaker, I shall repeat. When one Congressman can say for 4 million people what airport they are to be served from, some definite action should be taken.

A similar example was when one Congressman was able to affect the national defense for political purposes by canceling the homestead site in Benzie County by simply being able to see and talk to the right individual in the administration and to convince a sufficient number of the members of a committee. When a Member of Congress can put in a word with the right person in this administration at the expense of the public and the national defense, this is getting to be a sad state of affairs.

Mr. MEADER. Mr. Speaker, will the gentleman yield?

Mr. LESINSKI. I yield to the gentleman from Michigan.

Mr. MEADER. The gentleman seems to be making a rather serious charge that a Congressman has put political purposes above the national defense. I think it is only fair to the 435 Members of the House of Representatives that he identify the Member he is referring to.

Mr. LESINSKI. Well, the gentleman admits he is fighting this move.

Mr. MEADER. The gentleman is now speaking about something in Benzie County. Is he referring to me in that connection?

Mr. LESINSKI. No. I am talking about a parallel.

Mr. MEADER. Who is the gentleman talking about?

Mr. LESINSKI. I am talking about a parallel. I have no reference to any present Member of Congress.

Mr. MEADER. The gentleman does have reference to a former Member of Congress?

Mr. LESINSKI. The gentleman evidently is trying to protect himself and is drawing on references of the past. Yes.

Mr. MEADER. In other words, the gentleman is referring to a Member of Congress who is no longer in the House of Representatives?

Mr. LESINSKI. That is correct.

Mr. MEADER. Could the gentleman identify what Member that is?

Mr. LESINSKI. If the gentleman so requests I should be most happy to but I would rather not.

Mr. MEADER. I do so request.

Mr. LESINSKI. Who was responsible for cutting out the Homestead site in Benzie County? The gentleman very well knows the answer. It was by the action of former Congressman Shafer.

Mr. MEADER. I thank the gentleman for identifying him.

Mr. LESINSKI. Mr. Speaker, the Navy on Grosse Ile, the Air Force at Selfridge, and the Air National Guard are eager to get started with their vital programs, but are being held up because this problem has not been resolved.

Why do we, as Detroiters, have to travel an additional 25 million ground-passenger miles a year at an expense of approximately $2 million in addition to paying taxes when we could all be paying for a proper and modern airport such as those in Cleveland and other major cities. It is a shame that we of Detroit have to put up with a disgraceful looking air terminal to serve our area. Any city you may go to has at least something that resembles an air-passenger terminal. What we have is a converted hangar that could more properly and readily be used by the military for storage and repair of aircraft. We in Detroit need and should have a proper air-passenger terminal that we could be proud of and not have to put up with such a disgrace to the community as we now have because of the whims of one individual.

I understand that at the present time the Civil Aeronautics Administration has not included in its program for fiscal year 1956 any funds for the improvement or expansion of civil air facilities at Willow Run. This is certainly proper for under the Federal Airport Act of 1946 such funds are allocated for civil airports and Willow Run has been designated as a military airport.

The presently scheduled hearings before the Government Operations Committee will have no effect upon the problem. If action is not taken to implement the recommendations of the President's Airport Use Panel, I have prepared and am going to introduce a House resolution to investigate the whole procedure at Willow Run and to force Ansco and the University of Michigan to reveal their books so that we, the American people, can see what is going on behind the scenes.

DETROIT AIRPORT

The SPEAKER. Under previous order of the House, the gentleman from Michigan [Mr. MEADER] is recognized for 30 minutes.

Mr. MEADER. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MEADER. Mr. Speaker, I desire to reply to the gentleman who has just addressed the House on the matter of airports in the Detroit metropolitan area. Before I take up the references made to me personally and to a former Member of the House who is now deceased, I would like to give the House just a brief sketch of the problems involved here.

So far as I know, this is the first time that the gentleman from Michigan [Mr. LESINSKI] has seen fit to call the attention of the House to this airport controversy which has been raging in the Detroit area ever since World War II.

Mr. LESINSKI. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from Michigan.

Mr. LESINSKI. I must admit that the gentleman raises a point that this is the first time I have been before the House. My position has been taken in Detroit originally, last year in Detroit and since then many times.

Mr. MEADER. Yes. I must say that the gentleman had a representative present although he was not personally present at the Airport Use hearings in Detroit in June of last year.

Mr. LESINSKI. And at that time the gentleman himself complimented the chairman of the Airport Use Panel on his recommendations.

Mr. MEADER. I do not recall complimenting the gentleman on the Airport Use Panel. However, how the gentleman would know I do not know, because he was not present.

At any rate, this is the situation. Willow Run was built as a war facility. There is no question about that. It was

built to fly off the B–24 bombers, and at the time it was built, in 1942, it was the best airport in the United States. The commercial airlines had as their terminal a little airport in the city of Detroit at Gratiot and Six Mile Road, with a big gas tank in the center of it. When four-engine aircraft were placed in use by the airlines immediately after World War II, that airport became inadequate, and the airlines had no place to go except to Willow Run Airport. They have been at Willow Run Airport since that time, and they have no intention of leaving there for another airport in the same general vicinity.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from Michigan.

Mr. DINGELL. Is not the gentleman familiar with the existing Wayne Major Airport?

Mr. MEADER. Yes. Wayne Major was a small airport since, I believe, 1928. It was extended very rapidly after World War II; in fact, there has been a total, I believe, of about $13 million of State and local funds and some $4 million of Federal airport aid funds poured into that airport since 1946, and to complete the airport so that commercial airlines could use it would now require an additional sum of from $30 to $33 million. Wayne Major Airport is only 6 miles distant from border to border and 8 air miles from center to center from Willow Run Airport. Those airports, as a Detroit Free Press aviation writer said so aptly, are two airports on the ground but only one in the air. In fact, landings and take-offs at Wayne Major Airport are controlled from the Willow Run control tower in instrument flying weather. That is how close those airports are together.

Mr. Speaker, this is a matter that ought to be threshed out as a part of our interest in the Federal airport aid program, and I have requested the Legal and Monetary Affairs Subcommittee of the House Government Operations Committee to make a thorough examination of the Federal airport aid program and to take into consideration the allocation of Federal funds to Wayne-Major Airport. I claim it is unwise to spend $33 million on an airport that, when you get through with it, will be in the same traffic pattern as the existing airport serving the airlines.

Now, what is the alternative? The alternative is to build an airport for the city of Detroit in a different air traffic pattern and to spend $30 million where you will have something when you get through. The traffic needs of the future envisage multiple air terminals at Detroit. That happened at Chicago, Los Angeles, and at New York City where there are multiple airports and split operations. There should be another airport at Detroit located on the north or east side of the city where it will serve a far larger population.

Mr. Speaker, I do not want to debate the merits of this airport controversy in the limited time I have today. I have spoken on the subject before. In fact, there is a very complete recital of the whole matter, with considerations pro and con, appearing in the CONGRESSIONAL RECORD of February 23 on pages 3266 to 3280. I hope the gentleman from Michigan [Mr. LESINSKI] will take the trouble to read that, because it includes a very enlightening series of articles by Detroit Free Press Aviation Writer Jan Pearson.

Mr. LESINSKI. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield to the gentleman.

Mr. LESINSKI. Mr. Speaker, I am glad the gentleman has mentioned that local taxes were used to build up Wayne Major Airport. I appreciate that very much. The gentleman also mentioned that there was a difference of 7 air miles between the two airports. The gentleman realizes that there is a difference of almost 13 miles between these two airports and that it costs the taxpayers $2 million additional in travel expenses.

Does the gentleman realize the fact that the airlines are paying only $38,000 for a similar facility in San Francisco which handles 1,070,000 people?

The gentleman is fighting for ANTSCO.

Mr. MEADER. I think the gentleman has no right to say that I am fighting for ANTSCO. I am fighting for the taxpayers of the United States of America. I do not want to see $30 million go down a rat hole. That is my primary interest. But it is also a matter of interest to the people in my congressional district. I may say to the gentleman that the University of Michigan, a public body, accepted that airport when it was declared surplus after World War II and when the city of Detroit and the Wayne County Road Commission refused to accept it.

Mr. LESINSKI. That is true.

Mr. MEADER. And it has served adequately Detroit's need for an air terminal for the last 10 years and it has served at no expense to the taxpayers. I will say further that you have had in Wayne Major Airport over $4 million of Federal aid, which is 52 percent of all the aid that Michigan has received in the last 10 years. Willow Run has had something less than $200,000, a very small amount.

Mr. LESINSKI. Is it not true that one is a military base and one is not?

Mr. MEADER. Willow Run was not built as a military base. It was built to fly off bombers. It has served adequately as the commercial air terminal for Detroit for the past 10 years. It does not make sense to pay $30 million more for another airport in the same traffic pattern. The gentleman ought to be fighting for that $30 million to be spent over on the north or northeast side of Detroit where it will serve a larger population. But if you spend $30 million on Wayne Major, it is going to be a long, long day before you get any more airport money in the Detroit area.

I should like to refer now to the reference made by the gentleman from Michigan [Mr. LESINSKI] to my part in this airport controversy and draw particular attention to this sentence:

> When 1 Congressman can say for 4 million people what airport they are to be served from some definite action should be taken.

The gentleman is very flattering to suggest that I—and it was obvious from his answer to me that he was referring to me—have sufficient power and influence to thwart the desires of 4 million people. He might better have said that the facts of the case indicate that the present arrangement for the airlines is the businesslike arrangement and it would be foolishness to pour $33 million into an airport which would not be in a different traffic pattern but in the same traffic pattern. At any rate, let me say that there is not unanimity among the residents of Wayne County over the development of this Wayne Major Airport and pouring money into an airport right next to an already existing airport.

There is very responsible and expert thinking which recommends another airport at Detroit but closer to the center of population than Wayne Major, in a different traffic pattern and in a different center of population.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from Michigan.

Mr. DINGELL. I would like to ask the gentleman if in connection with his request for an investigation of the operations at Wayne Major Airport the gentleman would care to expand that request to include the operations at Willow Run; and why the unanimous recommendations of the Airport Use Panel have not been accepted; and also to include why the airlines there only pay $38,000 for that particular installation, when other comparable installations cost around $2 million a year to rent.

Mr. MEADER. Wait just a moment. I cannot remember all of the gentleman's questions. He asks too many.

Let us take the last one first. That is certainly not the case. I do not have the operating figures of the airlines, so I cannot give the gentleman the accurate figures, but what he is talking about, $38,000, is what has been for some years the approximate net rental that the University of Michigan has received; but the operation of the airport has cost far more than that, well over $1 million.

I have forgotten the other questions. I wish the gentleman would ask them one at a time.

Mr. DINGELL. What I want to know is, Would the gentleman be willing to have his request for an investigation broadened to include one as to how the Willow Run operation is conducted, and also to include the opposition to this change?

Mr. MEADER. I do not have any objection to it, if the gentleman is asking me if I am objecting to looking into the contractual relations between the University of Michigan and the Terminal Corp. that actually operates the airfield. As a matter of fact, I think the record is pretty well public on everything, so far as I know, except possibly the revenues from some of the concessions. That is what Leroy Smith has been trying to get at. I know that.

Mr. DINGELL. Quite frankly, I would like to have an investigation, but I would like to have it investigate everybody. Then we can find all the dirty linen.

Mr. MEADER. I think it is trying to throw dust in the eyes of the public. To try to infer, as the gentleman from Michigan [Mr. LESINSKI] stated, that there is

some kind of collusion between Capital Airlines and the University of Michigan. I do not think that is called for in any sense, and I think it is a reflection on the University of Michigan. As a graduate of that school, and as one who represents that community, I resent it.

Mr. LESINSKI. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from Michigan.

Mr. LESINSKI. Why did not the gentleman insert the report of the airport use panel together with the article, so that the public could analyze the whole picture from both sides?

Mr. MEADER. The recommendations of the Airport Use Panel were inserted in the RECORD. If the gentleman means why did I not insert the entire report, it was too long. But there was nothing to prevent the gentleman from inserting it this afternoon when he had the 10-minute special order.

Mr. LESINSKI. The gentleman's article took up 7½ pages of the CONGRESSIONAL RECORD. I ask unanimous consent, Mr. Speaker, that that report be inserted in the RECORD at this point.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. MEADER] yield for that purpose?

Mr. MEADER. I do not yield for that purpose. I suggest the gentleman insert it in his own time.

I would like to refer to the second reference made to a Member of Congress. I do not like these scattered shots which accuse people of improper motives as well as obstructing the national defense for political motives. It seems to me that it is bad enough when a man is here to defend himself, but when he is referring to our departed Congressman from Michigan, whom many of us loved and respected, the Honorable Paul Shafer, it seems to me that is going pretty low. I do not think any more need be said on that point at this time.

Mr. LESINSKI. The gentleman is saying a few things here that might have some truth. Maybe I am hitting low, but the facts are the facts, and when a fact is a fact it is never low.

As to the Benzie County airbase, the airport and everyone else were for it completely, but due to the action of Mr. Shafer it was transferred to Cadillac. After all, we all know about other Members' remarks on this matter. It has been transferred from one place to the other. That is why I brought the fact out that when an individual does such a thing, I do not think it is proper.

Mr. MEADER. Well, I do not know why the gentleman had to bring that into the Wayne Major-Willow Run Airport controversy in any event. I do resent his attack on a former Member who is not here to defend himself, but who could do a very good job of defending himself if he were here.

Mr. LESINSKI. Mr. Speaker, will the gentleman yield further?

Mr. MEADER. I believe I have yielded sufficiently to the gentleman.

Mr. LESINSKI. Mr. Speaker, will the gentleman yield at this point for one question?

Mr. MEADER. Mr. Speaker, may I ask how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Michigan has 17 minutes remaining.

Mr. MEADER. Mr. Speaker, I yield to the gentleman.

Mr. LESINSKI. I did not bring Mr. Shafer's name into this. You forced me to. You brought his name into it.

Mr. MEADER. No; you made a scattered shot.

Mr. LESINSKI. You forced me to bring his name into the picture. I did not request it. Indirectly, I was forced into it by you. So who is hitting below the belt? Presently I have no objection to the name going into the RECORD.

Mr. MEADER. I do not know anyone of the 434 Members of the Congress other than yourself that you were referring to by just naming blankly a Congressman and accusing him of improper motives and of obstructing the national defense for political purposes.

Mr. LESINSKI. I had no intention of bringing out the Member's name. It is through your insistence that the Member's name was brought out.

Mr. MEADER. It was perfectly clear, without the Member's name being mentioned, to those who are familiar with the circumstances, to whom you had reference. I do not know why you should just intimate who it might be. If you are going to attack a man, you ought to attack him openly and not slyly.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I decline to yield for the moment, but I will yield to the gentleman later on.

Mr. Speaker, I want to refer to one other part of the gentleman's remarks which may have slipped the notice of some, and that is the reference in his opening remarks that he had written the Secretary of Defense—mark this—that he had written the Secretary of Defense requesting that Mr. Wilson take immediate steps to implement the recommendations of the Airport Use Panel by exercising the Government's right by virtue of the present emergency to take possession of the Willow Run Airport. Now this controversy, I may say to my friend, the gentleman from Michigan [Mr. LESINSKI] I am fully aware is not one in which he has become engaged spontaneously without a little urging. There is a man down in Detroit, Leroy Smith, who fortunately is going to retire the first of next January, who has been plugging for this Wayne Major Airport bullheadedly and foolishly against all expert advice for 10 years and it is only natural that he should get some Congressman from Detroit to help him out in his fight when I got into it.

Mr. LESINSKI. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield.

Mr. LESINSKI. Leroy Smith never saw me.

Mr. MEADER. Well, then, was it Glenn Richards?

Mr. LESINSKI. Well, wait a minute my dear friend. You are trying to force me again into the same box as you did before. You are the one who put Shafer's name in the RECORD—I did not. It was not Leroy Smith.

Mr. MEADER. Then was it Glenn Richards? I do not know whether John P. McElroy was down here the last time, but they had a luncheon for the Detroit Congressmen and enlisted their good services in this body.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I will yield to the gentleman just as soon as I have made this point. The gentleman from Michigan [Mr. LESINSKI] is asking the Secretary of Defense to seize this airport, if you please, under emergency power. I took the trouble to get out the RECORD of February 20, 1956, when we had before the House the bill to amend the Armed Services Procurement Act of 1947, in which there was a good deal of discussion about the use of the emergency power for negotiating contracts instead of letting them on open bid. There was a good deal of discussion and I even asked the chairman of the Committee on Armed Services, the gentleman from Georgia [Mr. VINSON] if he had some views on the propriety of declaring an end to the emergency of December 16, 1950, under which the Armed Forces were using that extraordinary power of negotiation rather than bidding. But, it is interesting to note that the philosophy of that act is that there was no such emergency which would justify negotiating contracts rather than letting them out on open bid—and lo and behold who voted for the bill but the gentleman from Michigan [Mr. LESINSKI]. Now he comes in here 2 or 3 weeks later and asks the Department of Defense to exercise that emergency power, to do what? To take away from the University of Michigan something that they have operated successfully for 10 years at no cost to the taxpayers. Why? Solely because that will force the airlines to move to Wayne Major. That is the only way Leroy Smith knows how to get them over there.

Mr. DINGELL. Will the gentleman yield?

Mr. MEADER. I yield.

Mr. DINGELL. I am very grateful to the gentleman for asking this question: The gentleman has said to me he would have no objection to asking that his requested probe of the operations at Willow Run be expanded. Would the gentleman be willing to support the request I have made to have this investigation expanded to include the operations of the airlines at Willow Run?

Mr. MEADER. May I say to the gentleman that there is no limitation upon the scope of the investigation. It does not need to be expanded. It is already there. The committee has full authority to go into the entire question of airport aid generally and in this location. There is no need to ask for an extension of the investigation.

Mr. DINGELL. Will the gentleman see to it that those other aspects are investigated?

Mr. MEADER. If they are important I think the committee will go into it.

Mr. DINGELL. The gentleman mentioned that I had impugned the University of Michigan. I think the gentleman mistakes my motives. What I said was that I thought we ought to have the fullest investigation possible.

Mr. MEADER. May I interrupt the gentleman to say I was referring to a remark made by the gentleman from Michigan [Mr. LESINSKI], and not to the gentleman from Michigan [Mr. DINGELL], because I quoted from his speech, some reference to collusion between the Capital Airlines and the University of Michigan. I thought that was out of order.

Mr. DINGELL. I thank the gentleman.

Mr. MEADER. I might say on this subject of national emergency that I wrote a letter to the President of the United States under date of March 2, 1956, in which, in 3½ pages, I set forth the reasons why I believed, first, that it would be appropriate to consider the termination of the emergency declared by President Truman in 1950; and, second, in the event there were some purposes for maintaining that emergency under present conditions that, at the very minimum, the Federal agencies should be instructed not to use that emergency power to seize Willow Run. What do they want to use Willow Run for? The Air Force and the Navy Reserve training facilities, which are weekend flights. The Air Force has already moved down there. The Navy would operate I think some 32,000 operations a year, and could be accommodated if they had to be, without causing the airlines to move.

That seizure of the entire facility which is requested by the gentleman from Michigan [Mr. LESINSKI], has only one purpose, and that is to drive the airlines out right now by strong-arm, tyrannical methods. I hope the Secretary of Defense will not be sucked in on any program of that kind.

I may assure the House of Representatives that the matter of terminating the emergency declared in 1950 is being given consideration at the White House. I have a letter of March 5, 1956, from Mr. Bryce N. Harlow, administrative assistant to the President, and, Mr. Speaker, I ask unanimous consent that at this point both letters may be inserted in the RECORD.

The SPEAKER pro tempore (Mr. BONNER). Is there objection to the request of the gentleman from Michigan [Mr. MEADER]?

There was no objection.

(The letters referred to are as follows:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., March 2, 1956.

The PRESIDENT,
The White House, Washington, D. C.

DEAR MR. PRESIDENT: I urge you to consider the wisdom, at this time, of declaring at an end the emergency proclaimed by President Truman December 16, 1950, in Presidential Proclamation 2914.

Issued in the darkest days of the Korean war, the proclamation has now, after the passage of 5 years, it seems to me, outlived its usefulness and is out of harmony with domestic and foreign conditions of today.

A presidential emergency proclamation is a somewhat unusual governmental institution. In and of itself, aside from its appeal to the patriotism of all citizens, it has no effect upon property or personal liberty. It is only when others take legal action depending upon the duration of an emergency proclaimed by the President, that lives and property are affected.

The House of Representatives on February 20, 1956, adopted H. R. 8710, a bill to amend the Armed Services Procurement Act of 1947 by restricting the power of the military services to enter into supply contracts through negotiation rather than through competitive bidding. That action necessarily proceeded from the conviction of the House that insofar as the need for negotiated procurement is concerned, the emergency declared by President Truman in 1950 is over.

Many other legal rights and powers depend on that emergency. Extraordinary powers granted executive agencies in legislation, provisions in legal documents entered into by citizens in their private capacities, clauses in conveyances, and other legal documents from the Government reserving or granting rights and powers during an emergency declared by the President, not intended to exist during normal peacetime conditions, now hang over the heads of those affected like a sword of Damocles.

For example, in a deed dated January 15, 1947, from the Federal Government to the regents of the University of Michigan conveying Willow Run Airport, declared surplus after World War II, appears the following provision:

"(2) That during the existence of any emergency declared by the President or the Congress of the United States, the Government shall have the right without charge except as indicated below, to the full unrestricted possession, control, and use of the landing area, building areas, and airport facilities, as such terms are defined in WAA regulation 16, as amended, or any part thereof, including any additions or improvements thereto made subsequent to the declaration of the airport property as surplus; *Provided, however,* That the Government shall be responsible during the period of such use for the entire cost of maintaining all such areas, facilities, and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid."

Last year, the Airport Use Panel, an arm of the Air Coordinating Committee, recommended that Willow Run Airport be used by reserve military air units in the Detroit area, namely, the United States Navy Reserve, the United States Air Force Reserve, and the Michigan Air National Guard.

The panel also recommended that eight commercial airlines serving the Detroit metropolitan area transfer their operations from Willow Run Airport to Detroit-Wayne Major Airport, 6 air miles distant.

The report overlooked probable expenditures of from $28 million to $33 million of Federal, State, local, and private funds needed further to put Detroit-Wayne Major Airport into full-scale commercial operation. It also ignored problems of the use of airspace and the future congestion of air traffic in the already crowded air corridors of the Wayne-Major-Willow Run traffic pattern.

Even more important, the Airport Use Panel used as its basis for making such unusual recommendations the emergency proclamation of 1950, issued by President Truman, and the provision in the quit-claim deed to the University of Michigan which I previously cited.

The only military use of Willow Run Airport which has been suggested has been Reserve jet training operations of the Air Force and the Navy, largely weekend flying. The Air Force expects annual full strength operations (landing and take-off are regarded as separate operations) totaling 22,500, and the Navy estimates its annual operations at 32,000. Last year the total operations at Willow Run Airport were 141,000.

It is almost unthinkable that for this limited use the Government should avail itself of its technical legal right, under the above-quoted clause in the deed whereby the University of Michigan acquired Willow Run Airport, to assume possession and control of the entire field and the buildings now utilized for commercial scheduled airline operations. However, this seems to be the threat contained in the report of the Airport Use Panel. It would certainly be high-handed and arbitrary for the Government to take back Willow Run Airport after the University of Michigan has scrupulously performed its obligations under the deed, and the airport has served admirably for 10 years, both as a research center and as the air terminal for the Detroit metropolitan area, at almost no public expense and without a single accident.

The Executive emergency proclamation of 1950 seemed to be founded on two circumstances: (1) the Korean war, and (2) the cold war with communism.

The first reason for the emergency was dissipated when the Korean war was settled July 27, 1953. If the cold war with communism is the basis for an emeregency declaration, it would mean that we will be living under emergency conditions indefinitely.

I believe your administration has demonstrated that the American economy can thrive under peacetime conditions and that the Government can operate efficiently in peacetime without the extraordinary powers necessarily granted in a crisis.

There is a natural and understandable tendency in executive agencies to hold on to powers once granted and not turn them back either to the Congress or to the people. I do not believe you share this attitude. I believe it is your purpose in the interests of freedom and self-government to retain in the executive branch of the Government only those powers which are necessary to the proper discharge of executive responsibilities and to rely upon the support and cooperation of the Congress and the people to grant such additional authority as may be required in any future emergency.

I readily concede that there may be information of a classified nature to which I do not have access which may render our condition, both domestic and international, more grave than public statements of leading officials would indicate.

Unless there is such information, however, it would seem to me appropriate that serious thought be given to declaring the 1950 emergency at an end.

In any event, it would seem appropriate to instruct the executive agencies that the limited requirement for the use of Willow Run Airport for Reserve training activities would not justify the seizure of Willow Run Airport and all of its buildings simply for the purpose of driving the commercial scheduled airlines out of Willow Run.

Respectfully,

GEORGE MEADER.

THE WHITE HOUSE,
Washington, March 5, 1956.

The Honorable GEORGE MEADER,
House of Representatives,
Washington, D. C.

DEAR GEORGE: It is a pleasure to acknowledge, on behalf of the President, your March 2 letter, in which you urge the President to declare an end to the emergency proclaimed on December 16, 1950. I can assure you that a further reply will be forthcoming at an early date.

Sincerely,
With kind regard,

BRYCE,
Bryce N. Harlow,
Administrative Assistant to the President.

Mr. MEADER. Mr. Speaker, in addition to that, for the information of my colleagues from Michigan. I might say

that I have taken a leaf out of the Leroy Smith's book. So long as I thought it was a waste of money for the Federal Government to put $975,000 into Wayne Major, it is just as much a waste for the State of Michigan to put up half that amount to match it.

I have written identical letters, which I just mailed yesterday, to the chairman of the appropriations committee of the senate in the State of Michigan and the chairman of the ways and means committee of the Michigan House of Representatives calling their attention to this problem and urging that any appropriation of Michigan State funds for Wayne Major be withheld until the investigations, to which the gentleman from Michigan [Mr. DINGELL] and I have been referring, have been completed, and until there is some assurance that, if they spend all of this money at Wayne Major, the airlines are going to use it.

(The letters referred to are as follows:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C. March 12, 1956.

Hon. ELMER R. PORTER,
Chairman, Appropriations Committee,
Michigan Senate, Lansing, Mich.

DEAR ELMER: I am informed that the Wayne County Board of Supervisors has requested the State of Michigan to appropriate $413,149 to help match an allocation of $975,000 made recently by the Civil Aeronautics Administration for expansion of Detroit-Wayne Major Airport.

As you may know, I have asked the Legal and Monetary Affairs Subcommittee of the Government Operations Committee of the House of Representatives to investigate the Federal airport aid program and to give particular attention to further waste of Federal funds in spending some thirty-odd million dollars to develop Detroit-Wayne Major Airport, which is in the same air traffic pattern as Willow Run Airport now in use by commercial airlines at Detroit. As you also know, Willow Run and Detroit-Wayne Major Airports are but 6 air miles apart. That huge expenditure is particularly wasteful in view of the declared intention of the airlines not to use Detroit-Wayne Major Airport.

It would seem wise to me to withhold further appropriations for Detroit-Wayne Major Airport until investigation of the airport-aid program is completed, and until the airlines give some assurance that they intend to make use of Detroit-Wayne Major Airport as the terminal for the Detroit metropolitan area.

For your information, and in support of my suggestion, I enclose tear sheets from the CONGRESSIONAL RECORD containing remarks I made on February 23 and March 1, 1956, on the floor of the House of Representatives. They also include a series of articles on Detroit's airport problem by Jean Pearson, Detroit Free Press aviation writer. Those articles set forth rather comprehensively and in some detail considerations which seem to me to point conclusively to the desirability of withholding expenditures at Detroit-Wayne Major until such time as a definite, clear decision with reference to airports in the Detroit area has been made.

If there is any further information I can provide you, please do not hesitate to get in touch with me.

Sincerely,

GEORGE MEADER.

(Same letter to Hon. Joseph E. Warner, chairman, ways and means committee, Michigan House of Representatives, Lansing, Mich.)

Mr. DINGELL. Mr. Speaker, will the gentleman yield at that point?

Mr. MEADER. I yield to the gentleman.

Mr. DINGELL. Would the gentleman object to having that letter expanded to include the expenditure of any State funds at Willow Run?

Mr. MEADER. The gentleman's colleague, Mr. Leroy Smith, very effectively took care of that by coming down here and going before the CAA to oppose a very modest request of $86,500 for Willow Run when Wayne Major was asking for over a million; but his representatives took it up with the officials in the Civil Aeronautics Administration and urged them not to give any money to Willow Run, and they did not give any. Talk about somebody talking to an official of the Government, it seems to me that people at Wayne Major Airport—I do not know who is doing it but I know some of them have been down here and their efforts to see Members of Congress and also members of the Civil Aeronautics Administration and the Under Secretary of Commerce have been very successful in getting the major part of Federal airport aid funds and in getting action they wanted. I say the decision of the Airport Use Panel was a sham because they knew what they were going to do before they did it. Yet they ignored two of the features most important to be considered; namely, How much it is going to cost? And, second, What are the air traffic problems that will be involved if this is done? They expressly ignored those two items.

Mr. LESINSKI. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from Michigan.

Mr. LESINSKI. Is it not true that the military are seeking Willow Run?

Mr. MEADER. Is the gentleman asking me whether or not——

Mr. LESINSKI. They have all approved the move.

Mr. MEADER. No; wait a minute; let us get the record very clear on this. The Air National Guard is at Wayne Major and it has been there since 1928, I think.

Mr. LESINSKI. The gentlemen is correct.

Mr. MEADER. It has a long-term lease with some 20 or 25 years to go and it has an investment of $3 million in that field.

It wants to stay at Wayne Major. I have talked with officers flying on that field. They want to fly from Wayne Major because the runways are newer and wider; they can take off in formation. They do not want to move. Furthermore, they are not going to move unless they are forced. I understand that Leroy Smith has given up trying to get the National Guard out.

Second, the Navy Department, in December, 1954, wrote to Wayne Major Airport and asked permission to transfer their operations from Grosse Ile to Wayne Major; and Leroy Smith turned them down, simply because he said the airlines were going to move over there and there would not be space enough for the Navy too. The airlines have always said they were not going to move to Wayne Major, that it does not make sense to do so.

Mr. LESINSKI. Is it not a fact that the 4 military members of the Airport Use Panel request the Government recommendations?

Mr. MEADER. I cannot tell you that. I can tell you about one of the members of the Airport Use Panel because I flew up to Detroit with him. I can say that the conclusion was that it was better for the Navy to go to Wayne Major, and their representatives have stated that publicly in the Detroit area.

May I also say for the gentleman's information when the 10th Air Force originally wanted to move a squadron from Selfridge Air Force base they said they preferred to go to Wayne Major Airport.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield.

Mr. DINGELL. First I want to say for the record that Mr. Leroy Smith is not a colleague of mine or even an acquaintance, but I would like to ask this gentleman if it is not a fact that the Airport Use Panel's recommendation is unanimous on the subject?

Mr. MEADER. The Airport Use Panel's recommendation was unanimous, but I say they knew what they were going to decide before they ever went up there. The CAA and the CAB were the 2 civilian agencies represented on the 6-man panel; the other 4 were from the Department of Defense. There is 1 from the Department of Defense itself, there is 1 from the Army, there is 1 from the Air Force and there is 1 from the Navy. They had kicked this question around within the Department of Defense and came up with a firm position on it, even though there had been disagreements along the line. So it was the Department of Defense policy that the request of the Air Force to go into Willow Run be granted. As far as the CAA is concerned, they have been sucked in on this deal by Leroy Smith as long as 10 years ago when he came down here and got a commitment to develop Wayne Major Airport. They spent $4 million developing it. No public official is likely without a good deal of prodding to admit he made a mistake.

Mr. DINGELL. Does the gentleman set himself up as an authority superior to the Airport Use Panel as to the Wayne Major Airport?

Mr. MEADER. The Airport Use Panel is a stacked deck, that is all.

Mr. DINGELL. Would the gentleman say that the economic and financial interests of his particular district do not in any way affect his interest in this particular controversy?

Mr. MEADER. Is the gentleman asking me if I try to represent my constituency? The answer is "Yes."

Mr. DINGELL. And does not the gentleman's desire to represent his constituency perhaps overwhelm his respect for the good judgment of this Airport Use Panel?

Mr. MEADER. The gentleman is asking me my processes of thinking. I will frankly say to him that I became interested in this problem initially because my constituents were interested in it and brought it to my attention. I

became convinced over a year's study that there is involved a tremendous waste of public-tax funds unless somebody does something about it. That to me outweighs the interest of my constituents.

Mr. LESINSKI. Mr. Speaker, will the gentleman yield?

Mr. MEADER. I yield to the gentleman from Michigan.

Mr. LESINSKI. Is it not true that the Federal agencies of the Government that have been making this study are for this move and is it not also true that these commercial airline runways will be too short in the not too distant future because of a need for larger airports and that millions of dollars will have to be spent on Willow Run to make it adequate?

Mr. MEADER. The gentleman is asking me some questions that neither he nor I have an answer to; but I hope the Legal and Monetary Affairs Subcommittee will call before it real experts on the future of aviation in this country and will develop the best thinking on future airport construction. I will lay that alongside of the performance of the CAA and the other Federal agencies involved in this, like the Airport Use Panel, and see whether needs in the future of aviation are being properly taken care of.

Mr. LESINSKI. The gentleman is saying then that the President used very poor judgment in selecting the members of the Airport Use Panel?

Mr. MEADER. I do not think the President had too much to do with selecting them. I think the whole thing ought to be looked into. We here in the Congress set up the CAA to determine where and how the funds are to be spent. What happens? There was an Air Coordinating Committee created in September, 1946 which takes away from the CAA the authority to make decisions that Congress vested in the CAA.

DEFENSE MILITARY CONSTRUCTION

The SPEAKER pro tempore (Mr. BONNER). Under previous order of the House, the gentleman from Michigan [Mr. KNOX] is recognized for 45 minutes.

Mr. KNOX. Mr. Speaker, as the elected Representatives of the people of the United States, each of us present in this Chamber today, is directly responsible to our fellow American citizens for our national security and for wise frugality in the conduct of the fiscal affairs of our Nation.

Often times we are called upon to vote for national security measures that may offend our inclination to be frugal, but we vote for the legislation because we realize that a strong America is a necessary investment in our future. It is the only adequate safeguard in the great struggle against the evils of communism. The cost of national preparedness is almost as great as the urgency that must attend our attainment of a military posture which will render us immune to any Communist onslaught. It is because of that cost and because of that urgency, that I rise to address this distinguished body today.

I would like to discuss a matter with my colleagues concerning a possible action by the Congress of the United States that threatens to disregard the urgency of strengthening our defenses and that will violate every principle of economy that relates to our national security program. This proposed action will delay by over 1 year the beginning of a construction project deemed vital to our security by the Department of the Air Force. This action will cost the American taxpayer millions of dollars more in defense costs for less defense. The possible congressional action to which I refer may delay the completion of a defense project vital to our American security and would saddle the American taxpayer with added defense costs. The matter concerns the defense military construction bill for fiscal year 1957 with particular reference to the portion of that bill authorizing the appropriation of funds for the Kalkaska Air Force Base, Kalkaska, Mich.

Recently certain self-seeking individuals sought to have the site of this Air Force base transferred from the Kalkaska area to a location in the vicinity of Manistee, Mich. These persons have sought to accomplish this purpose in total disregard of defense considerations without concern for economy and in a selfish effort to further their own personal interests. It is inconceivable to me that the Congress of the United States would take favorable action on legislation that would advance the selfish interests of a few against the common good of the many.

So that the Members of the House of Representatives may be informed with respect to the facts in this matter, I would like to take a few moments to present a recitation of the events that led up to the recent tentative action of the House Committee on Armed Services that resulted in tentatively changing the site for the proposed airbase from Kalkaska, Mich., to Manistee, Mich.

On January 11, 1954, the then senior Senator from the State of Michigan, the Honorable Homer Ferguson, announced that the Air Force had decided that a jet-interceptor base would be located in the Traverse City area of northern Michigan. In the ensuing months, comprehensive studies were made in the area to assure the selection of a site that would be situated in the best possible strategic location that had acceptable characteristics from the engineering and construction standpoint and that would offer adequate community recreational facilities for troop morale purposes. This study was joined in by the interested committees of Congress and by the appropriate officials of the Air Force. The study resulted in the selection of a site in the vicinity of Kalkaska. Kalkaska met the operational criteria of the Air Force and Kalkaska and nearby Traverse City pledged complete support and cooperation in all aspects of community life to the Air Force if the jet base were located in the vicinity. A further feature of the Kalkaska site that made it desirable from the standpoint of the Air Force was that it offered a potential that was for all practical purposes, unlimited for future expansion of the base for multipurpose use.

Detailed engineering studies of the possible sites of the jet base in northern Michigan demonstrated that the Kalkaska site would cost less in original construction and would entail a lower annual cost for the operation of the SAGE project that would be located at the airbase. Mr. Speaker, at this point in my remarks, I would like to include a table prepared by the Department of the Air Force showing the costs that I have just alluded to for the Kalkaska site and the three possible sites in the Manistee area:

Department of the Air Force cost estimates for airbase construction in Traverse City area

Proposed sites	Construction cost of airbase including real estate and SAGE project	Annual communications cost for SAGE project
Kalkaska site	$16, 943, 650	$1, 040, 000
Manistee site I	19, 537, 247	1, 500, 000
Manistee site II	18, 532, 756	1, 500, 000
Manistee site III	17, 276, 061	1, 500, 000

In a letter addressed to the distinguished chairman of the House Armed Services Committee dated July 28, 1955, the Department of the Air Force in considering the Kalkaska site and the three possible sites in the Manistee area, had this to say:

Based upon construction costs, yearly operating costs, and community support, the development of the Kalkaska site would be in the best interest of the Air Force.

The immediate development of a new air base and the SAGE project at the Kalkaska site is necessary to meet an urgent air defense requirement. Therefore, it is respectfully requested that approval be granted by your committee with the least practical delay, for the development of an air base at this location.

The authorization and appropriation for the expenditure of $8,635,000 has already been favorably acted on by the Congress.

With the concurrence of the House Committees on Appropriations and Armed Services and the Senate Committees on Appropriations and Armed Services, the Department of the Air Force, and the communities affected began in the early fall of 1955 to prepare for the development of the jet interceptor base in the Kalkaska area. To change the location of the site from Kalkaska to some other location at this late date would delay construction on this vitally needed base according to Air Forces estimates, by approximately 1 year as well as fritter away approximately $500,000 that the Federal Government has already spent or committed to be spent in the development and completion of plans and working drawings for the Kalkaska site. The time lost and the one-half million dollars that I just referred to would be in addition to the increased construction costs and the higher annual operating costs which are indicated in the table that I presented earlier in my discussion of this matter.

The Air Force has substantially completed the process of land acquisition at

Kalkaska and it has a lease on some 7,000 acres of State land available for base development. The State of Michigan has already cleared over 100 acres of this land at State expense and loss of timber because of the decision to locate the base at Kalkaska and to move the base now would break faith with the State of Michigan and its great people.

In the words of an official of the Department of the Air Force testifying before the House Committee on Armed Services in regard to the Kalkaska base:

> It is a matter of importance that this go forward rapidly. Not only because of the need and desirability of establishing a base for our fighters as a protection to the central part of our country but in order to establish the SAGE installation which is a part of the network of projection for the whole northern border of our country.

This same official, again referring to the urgent need for the base at Kalkaska, stated as follows:

> The project of the SAGE installation is of the utmost importance. The plans are ready. We could go forward placing contracts within a matter of weeks if it were established that the installation will go at Kalkaska.

The Air Force has expressed the view that to shift the base from Kalkaska to the Manistee area leaves a gap in the defenses of the United States for an additional year and that the Manistee site would present difficult problems in connection with base expansion that are not found in the Kalkaska site.

Thus, we have expression of views by responsible officials of the Department of the Air Force that the Kalkaska site for the jet interceptor base in the Traverse City area is more desirable from the standpoint of construction, is more economical to build and maintain, and is already in substantial and significant progress. We have the view expressed by the Department of the Air Force that to change the site at this point would leave a gap in our border defenses against enemy attack. Mr. Speaker, the facts that I have recited provide more than sufficient reason for keeping the base at Kalkaska. Unfortunately, they are not the only reasons why the base must be retained there. I would like for a few minutes to discuss considerations involving the communities that would be affected by the proposed transfer of the air base from the Kalkaska area to the Manistee area.

In beginning this aspect of my discussion of this matter, I would like to quote from a letter dated January 19, 1955, that I received from the distinguished chairman of the House Committee on Armed Services, the Honorable CARL VINSON, in which he says as follows:

> It has been the experience of the committee that unless there are obvious and compelling reasons for reconsideration of the site selected, and these reasons should, in the last analysis, relate directly to our defense, no useful purpose is served by engaging in action which could well be construed as substituting the judgment of the committee for qualified people in the military departments.

Thus, the chairman of the great Armed Services Committee has gone on record in favor of keeping the base at Kalkaska and thereby complying with the judgment of the Air Force.

When the people of Kalkaska and Traverse City learned of the desire on the part of the Department of the Air Force to create a jet interceptor base in the vicinity of their communities, they reacted with a spirit of cooperation and willingness that I like to think is typical of our American citizens. With their financial resources and their personal endeavors they wholeheartedly undertook to cooperate with the Department of the Air Force in the development of the base. On the part of the year-round residents of the communities, I think it may be stated that the community support for the project was without exception. The personal consideration of inconvenience that might result from operation of the base in their vicinity was subordinated to the realization that such a base was vital to the defense of our country. Communities facilities for education, worship, recreation, and living were made available to the Air Force and plans were made for the further development of these facilities. People realized that the communities of Kalkaska and Traverse City would have an important contribution to make to the morale of the troops who might be stationed at this new Air Force base. The people were determined that service at this base would be a bright spot in the career of any Air Force man or woman. Over 100 acres of timberland have already been cleared for the development of the base.

To assure that there was community cooperation with the Department of the Air Force in the development of the base, the citizens of Kalkaska and Traverse City organized the Kalkaska Air Base Committee, Inc. I stress the fact that this committee was organized for purposes of cooperating with the Air Force and not for the purpose of creating pressure in favor of the selection of the Kalkaska site. I have recently received a telegram from the president of the Kalkaska Air Base Committee, Mr. Merle Lutz, who is a distinguished year-round resident of the community of Traverse City, in which he succinctly highlights the efforts of the citizens of the two great communities in their endeavor to cooperate with the Department of the Air Force. Mr. Speaker, at this point in my remarks I will include in the RECORD the telegram from Mr. Lutz:

> TRAVERSE CITY, MICH., *March 5, 1956.*
> Representative VICTOR A. KNOX,
> *House of Representatives,*
> *Washington, D. C.:*
>
> The people of Kalkaska and Traverse City, Mich., have subscribed a total of $85,849, of which $74,279 is already paid in cash, for the purpose of acquiring privately owned properties in the Kalkaska jet airbase site. Over 405 individuals or firms contributed to the fund. This was done to keep our word to the Air Force that these lands would be turned over free and clear to them. Forty-eight individual parcels of land must be purchased, and we have already acquired 18 of them. Nineteen thousand two hundred and thirty-eight dollars has already been spent in acquiring these properties, and several thousand dollars additional has been spent for legal and appraisers' fees and other expenses. A contingent fund of several thousand dollars has been raised for eventual USO purposes. Additional properties are being purchased as fast as contact can be made. The counties of Kalkaska and Grand Traverse, with the State of Michigan, are formulating plans for highway construction to accommodate the jet airbase. Added school facilities are being planned to accommodate children of the jet base personnel. Both communities are working energetically to be ready to welcome and accommodate the jet airbase at Kalkaska.
>
> MERLE LUTZ,
> *President, Kalkaska Air Base Committee, Inc.*

Mr. Speaker, this community activity is significant not only with respect to the development of the airbase but in my opinion it is even more significant in revealing what the attitude of the people will be toward the Air Force personnel who will be stationed at the base when it becomes operational. Being familiar with the patriotism and civic mindedness of the people of these two communities, I am confident that the relationship that will exist between the airbase personnel and the citizens will be exemplary.

That community acceptance is an important morale factor with respect to our service personnel goes without saying. The quality of training that must be given to our fighting personnel in this day of scientific warfare makes it highly desirable that we have a high incidence of reenlistment in order to insure technically competent persons to man the complex machines of war.

Mr. Speaker, I think that I can best sum up my remarks on this subject by saying that Traverse City and Kalkaska want the Air Force and the Air Force wants Kalkaska and Traverse City.

I would not, Mr. Speaker, be totally objective with my colleagues in the House if I were to represent that there were not some residents of Kalkaska who oppose the location of the airbase in that vicinity. My remarks that follow should not be construed to be critical of these dissenters as individuals. I am confident that they are patriotic, loyal citizens who, Mr. Speaker, in their evaluation of this matter, may be unwittingly giving greater consideration to their personal convenience than they are to the welfare of our service personnel and our national security. From my correspondence I have concluded for the most part that those persons who object to the location of the airbase at Kalkaska are summertime residents of the area. They might be termed "fair weather friends."

One of the major weaknesses in the argument that these objectors present probably could be best demonstrated by a passage from a letter that I received from a citizen in Indianapolis, Ind., who sought my support in opposition to the airbase at Kalkaska. This Indiana "constituent" states as follows:

> The fact is, however, that there are other sections in northern Michigan not so heavily populated as a resort area where I think this airbase could be located.

Mr. Speaker, I do not believe that there is any airbase in the United States that could not be moved to a greater area of wilderness from its present location.

The Air Force has deliberately, and rightly so in my opinion, pursued a policy

of locating airbases near communities where proper recreational facilities can be available to its service personnel. As one Member of Congress, I think this Air Force policy is right. I would oppose the transfer of any of our airbases to wilderness locations for the convenience of certain selfish citizens. It is these same citizens who would in a time of national emergency look to America's fighting men whom they relegate to the wilderness, for the defense of our Nation.

A "constituent" from St. Louis, Mo., has also undertaken to oppose the location of the airbase at Kalkaska. He is another summertime resident of the community. This "constituent" from St. Louis recently appeared before the House Committee on Armed Services and testified that the peace and tranquility of his fabulous home on Torch Lake would be disturbed by the location of the airbase at Kalkaska. Upon investigation I have learned that this "fabulous home" is assessed for real-estate tax purposes at $3,800 on which he pays $100.70 a year in real-estate taxes to the local community. I would inquire of my colleagues in the House as to whether the peace and tranquility of this summertime resident of Kalkaska are to be considered as paramount to the morale of our Armed Forces personnel whom he too would relegate to the wilderness? This same constituent from St. Louis has circulated a communication urging the citizens to make contributions to the Chain of Lakes Protective Association which he states will be deductible under the internal-revenue laws. This gentleman has urged interested people to donate stocks that have appreciated in value to his cause so that they may claim as the income-tax deduction the full market value of the security. I presume that this St. Louis neighbor would have the citizens of Kalkaska and Traverse City take their life savings for this purpose.

Mr. Speaker, I am happy to inform my colleagues in the House that the majority of the summertime residents of the Traverse City-Kalkaska area have a patriotism and a concern for the welfare of our service personnel which transcends personal consideration, real or imaginary, and they are supporting the location of the airbase at Kalkaska in view of the decision of the Air Force that the base should be located there.

In the September 1, 1955, edition of the Antrim County News, there was published a letter from a Lt. Col. Joseph Godley, of the United States Army, retired, which deals with the subject about which I have been talking this afternoon. I request, Mr. Speaker, that this news article be printed at this point, in the RECORD, of my remarks:

WRITER IS AMAZED AT LACK OF PATRIOTISM IN OPPOSING KALKASKA JET BASE SITE

(EDITOR'S NOTE.—The following letter was received regarding the Kalkaska jet base site:)

DEAR KEN: As you are probably well aware, I have no craving for publicity. However, upon my return from an absence of a week, one of the first things which caught my eye in going over your issue of the 25th was the headline "Alden Group Protests Kalkaska Base."

Reading over the article it amazed me that so many people in an American and purportedly patriotic community, people of presumably normal intelligence and patriotic feelings could have lent themselves to a purpose such as stated and have signed petitions opposing selection of the Kalkaska Base site. I want to say right now that had I known, and I know of others who feel the same, that the intent of certain people who attended this meeting, was to engineer such opposition, I should have made every effort in my power to attend and voiced my sentiments against such an expression emanating as the concensus of community opinion on the subject. By community, I mean the Chain O' Lakes area, and by the same token convey my feeling that the entire community is concerned, not merely Alden. I feel, too, that Alden is merely the innocent focal point in this situation, and that if a true canvass were taken it would be found that the folks there resent this slur on their patriotism in using the name of their village in this fashion.

The action opposing the establishment of the base was apparently taken by a relatively few persons, people who spend the relatively few weeks of the summer season at their resorts in the area. No question but what some regard the proposed base as an invasion of their peace and quiet. On the other hand it may equally well be the effort of others to inject this community into a well-publicized controversy between contenders for the site which has held up for over 18 months the construction of a defense installation that could well prove to be of paramount importance in a national emergency that could drop out of the skies more quickly and with more paralyzing and devastating effect than that which came to us at Pearl Harbor.

Be that as it may it is a pity that any group of our citizens should set their own ease and comfort, and their own private interests above the interests of this community, the State and our national security. It is understandable that many people will sign petitions on request and without giving full consideration to all the facts in the case. I can sympathize for those who feel that jets flying overhead create disturbance, but my own experience and that of our many comrades of the services, give assurance that we can accustom ourselves to these things just as we had to get used to the bombing and strafing, the shells and the other missiles of the enemy, not to mention the multiple discomforts of active service—the classic examples of which are the sufferings of our patriotic troops at Valley Forge, the bloody battles of the wilderness, the horrors of trench warfare, the Bataan march, the D–Day landings and the Bulge battle, and certain incidents of the Korean conflict still fresh in our memories. But what are these compared to having your relaxation disturbed for a few moments?

Further—who is so foolish that he fails to understand and appreciate the value to community of a military installation, like a large plant, with its large payrolls, its needs for housing, food, clothing, and recreational advantages for its personnel and their dependents?

Much has been said about the undesirable "hangers-on" at a military instllation. It is true that in time of war it is not always possible for the authorities to control such elements as much as might be desired, but I can assure my neighbors that every human effort is made to do so, and I will say also, that nowadays these installations and their environs are much better policed than the average community is by the civil enforcement authorities. Also, it is hardly necessary to point out, that the personnel of these installations may not be among the wealthy and most cultured in our midst, but they certainly, and as never before in our national existence, represent a segment of the best in our population, with educational and living standards of a high average order. Indeed, if such high standards were not insisted upon, our Armed Forces would be totally inadequate to protect the Nation with the complex weapons and equipment in our modern Arsenal.

It can be said without equivocation, that the community has nothing to fear—the prospects of problems arising from such hangerson are nothing to be alarmed about, and the noise of the jet planes are something we can get accustomed to. We all have to make some small sacrifices to attain the maximum security which cannot be perfect and total whatever we do, in this upset world of today. Many can very well be thankful that they are not called upon to make greater contribution of their personal services, their time and effort, in this troubled world, to the gigantic machine required to protect our leisure amidst the colossal uncertainties facing our national planners in their mission—the preservation of human rights and liberty, and the best political and economic systems known to mankind thus far.

A few words more anent my understanding of the reason for the selection of Kalkaska as the base site. These express my personal views, views based upon some 40 years of military and economic studies. The selection has been made on a consideration of the military values which has been given to far too few of such selections in our history as a Nation. Much has been printed on the subject—let me give you my understanding in a capsule. It appeared necessary to make the installation within a certain restricted area. As is well known, certain favored sites were objected to on one ground or another—Interlochen National Music Camp being one. Personally, I'll admit that the objection there would have had little weight with me had no equally good site been available, but I can see the point, and I love music, too.

Cadillac, alive to the advantages, has made a fine fight to get this base. However, anyone with an elementary knowledge of the requirements, would understand the rejection of this site. I have seen too many fine and promising young men cut off in their early useful lives, to subject them to the unnecessary, additional risks that site offers. Anyone who has seen that towering TV mast near Cadillac, with its many steel struts supporting it at various heights and angling to the ground at varying distances, can readily understand its menace to jet flyers going at a speed which allows no time to transmit vision to action reflexes, no matter how brilliantly lighted.

There are other objections which make Kalkaska stand out as the superior site, but let that one which has no equivalent as a mankiller prevail in my theme.

In short, it is my strong impression that the selection of Kalkaska was made principally because it offered the greatest advantages and strategic values.

It rests there with me, and I'm sure that nothing this group does will be allowed to upset the findings upon proper evaluation. We, my wife and I, have as great a stake in the outcome as any individuals owning property for their personal recreation, and there is no single property any place in the Chain O' Lakes area in my knowledge, that we would exchange it for. We are entirely satisfied that the selection of the Kalkaska Base site was made upon its merits and its value from a standpoint of its security value to the Nation. We are glad to have it that way.

Sincerely yours,

JOSEPH GODLEY,
Lieutenant Colonel, United States Army, Retired.

Mr. Speaker, it is my understanding that the House Committee on Armed

Services met this morning for the purpose of taking final action on the Defense Military Construction bill for fiscal year 1957. It was my hope that that distinguished committee would give heed to the urgings of the Department of the Air Force to permit continuation of the airbase at Kalkaska, Mich. It was my hope that that committee would give heed to the taxpayers' pocketbook and the need of our Nation of immediate maximum security and authorize continuation of the work on the Kalkaska base. It was my hope that that committee would have the compassion to be concerned with the welfare and morale of our Armed Forces personnel and direct the Air Force to continue with the Kalkaska Air Base.

Since the Kalkaska base was not included in the defense military construction bill as reported by the committee, I will be constrained to offer a floor amendment to the bill authorizing the continuation of the Kalkaska Jet Base project. My responsibility to the American people as well as my duty as a Congressman from the 11th Congressional District of the State of Michigan will leave me no other alternative. The urgency of the defense considerations involved in this matter, our responsibility to the American people to frugally guard the Federal purse strings, and the morale and welfare of the young men and young women who are required to serve in our Armed Forces provide compelling reasons for my colleagues in the House to join me in this endeavor.

Mr. Speaker, attached herewith is an editorial relative to the designation of a jet air base in northern Michigan. It is so well written and the fact presented in such a way that I feel sure the entire membership of the House would like to have this editorial from the Detroit Free Press for reading purposes:

POLITICAL PORK WINS—DEFENSE RUNS A BAD SECOND

When April 15 rolls around, and the average American mails in his income tax, he may ask, in the light of the Kalkaska Air Force jet-base squabble exactly how his tax money is spent.

A jet base, we were told, was needed in the northwest part of Michigan for the defense of vital industrial areas of the United States, including Detroit and Chicago.

From that point on, the public interest seems to have been completely overlooked.

First there was a row over which Michigan Congressman would benefit by having his base located in his district. It was offered to Representative THOMPSON, of Muskegon; then it was shifted to the district of Representative KNOX, of Sault Ste. Marie. It was a long, drawn out controversy, with chambers of commerce getting into the act, and it culminated with charges of attempted bribe offers which have never been fully dealt with.

Now the base is to be moved again, from Kalkaska in Representative KNOX's district, over to Manistee, which is in Representative THOMPSON's district. This shift is being made by the House Armed Services Committee over the protests of the Air Force.

It is undoubtedly being done as a matter of congressional log rolling. But it will delay the availability of the field for 2 years, and it will cost the taxpayers $500,000, representing funds already poured into Kalkaska.

The question is whether the establishment of military defense installations is primarily for the purpose of protecting the United States or providing pork from the barrel for politicians.

When the Federal Government talks about the need for bigger budgets for defense, the people of Michigan are likely to remember Kalkaska and ask how their money is being spent—for the benefit of the Nation or the benefit of a few Congressmen and the pressure groups among their constituents.

Mr. Speaker, I wish to call to the attention of the Members of the House an editorial which appeared in the March 10, 1956, edition of the Ann Arbor News. It most certainly sets forth the confusion that has resulted in the selection of a site for a jet base in northern Michigan.

HASSLE OVER JET BASE SITE AN INCREDIBLE PERFORMANCE

Representative RUTH THOMPSON, Republican Congresswoman from Michigan, says she is glad the question of location for the proposed northern Michigan Air Force base is settled, but she may be a little premature. Why should she think that the jet-base-site issue which has been kicked around for more than 2 years is settled? Just because the House Armed Services Committee has voted to move the base from Kalkaska to Manistee? This is the fourth proposed location, and why should anyone think there won't be a fifth?

The controversy over a jet-base site would be funny if it weren't a matter linked to the country's defense system. How badly is such a base needed if it can be delayed year after year? It has been estimated that the latest change in site, from Kalkaska to Manistee, will hold up operations for another year.

Briefly, the history of the jet-base location fight is something like this:

Representative THOMPSON originally supported the Air Force's choice of a site in Benzie County. Dr. Joseph E. Maddy, director of the National Music Camp at Interlochen, led a campaign of opposition to the site on the grounds that it was too close to the camp and would interfere with its program. The House Armed Services Committee supported his stand, but businessmen in the Traverse City area were unhappy about it.

The Armed Services Committee then selected Cadillac as a site. Miss THOMPSON fought the decision because the proposed new site was outside of her district; later she charged that she had been offered a $1,000 bribe to support the Cadillac site. The House Appropriations Committee backed her by blocking funds for Cadillac.

The third location was chosen last August after Congress had adjourned. The Air Force selected the Kalkaska site, and that was believed to be the final choice until the Armed Services Committee upset the applecart again this week.

The switch to Manistee reportedly will mean another delay, and Representative Gerold Ford, Grand Rapids Republican, says it also will mean the loss of half a million dollars "already committed by the Air Force at Kalkaska."

The people of Michigan would like to know what is behind these on-again, off-again tactics. Is it more important that the jet base be in Representative THOMPSON's district or that it be built quickly, as economically as possible and on a site that satisfies the Air Force, which after all should have something to say about it?

A member of the Armed Services Committee which made the latest and apparently least defensible change is Representative DEWEY SHORT, Missouri, Republican. SHORT, who happens to be from the same State as the leader of a group of Kalkaska summer residents opposing the Kalkaska site, supported the move for the sterling reason that the Air Force had not "kept faith" with Representative THOMPSON, who he said had assurances the base would be placed in her district.

And that, as far as we have been able to determine, is the compelling reason for this fourth change in site. We can only wonder if it is more important to keep faith with a Member of Congress than with the American people, who were to have been afforded a degree of security by the construction of this jet base.

Mr. KNOX. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include certain related material.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HISTORY OF EFFORTS TO GIVE SMALL BUSINESS EQUALITY OF OPPORTUNITY PRIOR TO INTRODUCTION OF H. R. 11

The SPEAKER pro tempore (Mr. ALBERT). Under previous order of the House, the gentleman from Texas [Mr. PATMAN] is recognized for 30 minutes.

Mr. PATMAN. Mr. Speaker, on Thursday of last week, March 8, I spoke on the bill H. R. 11. I explained that on Monday, March 12, I would file a discharge petition to call this bill up. If a majority of the Members of the House sign the discharge petition, we will have 2 hours of general debate and then vote on H. R. 11.

H. R. 11 is a small-business bill. Almost every small-business man in the United States knows about H. R. 11 and fully understands H. R. 11. This bill goes to the very vitals of small business. It involves a direct question whether small business shall continue to exist.

H. R. 11 WILL RESTORE THE MAGNA CARTA OF SMALL BUSINESS

As I explained last Thursday, H. R. 11 amends the Robinson-Patman Act to close a gaping loophole which the Supreme Court has driven into that act. I know I need not tell the Members what the Robinson-Patman Act means to small business. It has been hailed as the Magna Carta of small business. Next to the tax law, this act is probably better known by small-business men all over the United States than any other law passed by Congress.

Everyone who is old enough to remember the wholesale destruction of small business which took place during the 1920's and the early 1930's knows how this law put a sharp check on that destruction and redirected the course of business. In the 15 years prior to passage of the act, small, independent businesses disappeared by the tens of thousands. Independent wholesalers and retailers all over the United States were swept away before the blitz march of a few giant chains. We were rapidly headed for a complete monopolization of the distribution business in this country, similar to if not worse than that which had already taken place in the manufacturing fields two decades earlier. Passage of the Robinson-Patman Act stopped that disastrous march. It is no exaggeration to say that without this law we very probably would not have any

small businesses left in the United States today. Our country would have been a very different country from what it is today, and it is probable that our political freedoms would have been very different from what they are today.

THE 74TH CONGRESS GAVE SMALL BUSINESS A CHANCE

I mention these things, not because I had a hand in drafting the Robinson-Patman Act and my name has become associated with it. I say to you plainly that the whole 74th Congress was the author of the Robinson-Patman Act. When this bill came before the House, it was passed by a vote of 290 to 16, and when it came before the Senate, the Senate passed it unanimously. In those days almost everybody wanted to give small business a fair break and we did it.

I know that today an overwhelming majority of the Members also want to give small business a fair break. Despite the public impression that today only big business can get help, and that this is an era for heaping more special advantages on big business, I am confident that Congress will pass H. R. 11. Most of the Members of the House will, I know, want to pass this bill without delay. Forty-seven Members joined me as cosponsors of the bill when it was introduced on the opening day of this Congress. Over on the Senate side, 31 Members of the Senate joined in introducing an identical bill. That bill is S. 11. More than that, I have seen letters from President Eisenhower to some of the small-business people which lead me to think that President Eisenhower will sign this bill. It is a very modest bill. It gives small business no more protection, but actually a little less protection, than small business had before the Supreme Court misinterpreted the law and created this loophole we are now concerned about. It gives no more protection to small business than I feel almost everyone will readily agree to, including even the more fairminded executives and lawyers for big business. This bill is clearly necessary to restore to small business equality of opportunity, and thus give small business a fair chance at survival. Small business depends upon this bill. It would be a monumental cruelty to refuse to pass it, and it would be a monumental folly.

JUSTICE DELAYED IS JUSTICE DENIED

I feel that the Members will agree that the issues involved in H. R. 11 are too serious, and fraught with dangers too grave, to permit delay or procrastination in acting on this bill. The Court opinion which drove a loophole in the law dates from 1951, and we have been lucky that the deterioration of small business has not followed more quickly than it has. We are lucky because the meaning of the decision has become only gradually understood. Coupled with the fact there was a seller's market for several years following the decision, this has meant that the deterioration in pricing practices has been delayed and gradual. But our luck has now run out, and we have already delayed too long.

We have all had desperate pleas from small-business people telling us of their plight. We have all seen the reports on small-business failures, and we are seeing the toll mount week after week.

I explained last Thursday what H. R. 11 does, and how the need for it arose. For the benefit of those Members who want to go into more details, however, I will today give a more complete statement. First, I would like to discuss the matter in a general way, then I will give a more formal analysis of the previous laws on this subject and the Court decisions which have made new legislation necessary. I made an exhaustive statement of this kind on May 10 of last year, in testimony before the Antitrust Subcommittee of the House Committee on the Judiciary; and I would like, today, to draw heavily upon that earlier statement.

H. R. 11 CURBS ABUSE OF POWER

H. R. 11 strengthens our antitrust laws. Specifically, it amends and strengthens section 2 of the Clayton Antitrust Act of 1914, as previously amended by the Robinson-Patman Act of 1938. This act curbs a monopolistic practice which is, to small business, the most deadly of all monopolistic practices. This is the practice of price discrimination. This practice involves nothing more nor less than abuse of power. It inevitably results, therefore, in big business destroying small business, without respect to efficiency or other merits. Whether by intention or inadvertence, big suppliers destroy smaller suppliers, and big distributors destroy smaller distributors. By this practice big sellers, selling in many markets, or selling to many separate buyers, exercise an unfair and unjustified advantage over smaller competing suppliers who necessarily sell in fewer markets or to fewer separate buyers. The practice likewise results in big distributors'—that is, big wholesalers' and big retailers'—receiving unearned advantages with which they inevitably destroy smaller competing distributors. In brief, price discrimination is what makes the competitive contest unfair and oppressive. It is the great centralizing force in our business system which concentrates business more and more into the hands of the few and forecloses opportunity to the many. The practice inevitably results in monopoly, although our national policy is committed, theoretically at least, to preventing monopoly.

THE SHERMAN ACT DOES NOT GIVE SMALL BUSINESS A CHANCE

The practical effects of price discrimination have of course been long and widely understood. There is probably no businessman in the country, be he the smallest retail merchant, who does not know what the practice means and what the results are. Legislative attempts to curb and control the practice likewise have a long history.

In general, our antitrust legislation has taken two quite different approaches to the problem. The first, which many people believe to be the Sherman Act approach, and which for the most part has been the Sherman Act approach, is to do nothing about the problem. The theory of this approach is to make no interference with a variety of monopolistic practices, including discriminatory pricing, but wait until monopoly results, then dissolve the monopoly. In practice this has meant that part of the routine in suing to break up a monopoly is to introduce evidence on the company's record of discriminatory pricing, in order to show that the monopoly was attained through abuse of power and should therefore be condemned. But in practice the Sherman Act approach has also meant that very few monopolies were ever broken up. This of course gives great comfort to some of the spokesmen for monopoly industries, for they can praise the Sherman Act to the skies, knowing full well that any threat to monopoly from the Sherman Act is extremely remote and far distant.

Even if the Sherman Act approach accomplished what the theory holds for it, this approach would be unsound and barbaric. It rests on the proposition that it is perfectly all right to deny opportunity to one generation, on the assumption that opportunity will be restored to some later generation. It denies the public the protection of competition over the years when competition has been lost but the full flower of illegal monopoly has not yet been reached. It is an arrangement for special privilege, for it allows an equilibrium in which illegal monopoly is not reached, yet opportunity to the many is foreclosed.

H. R. 11 COMPLETES WORK STARTED IN 1914

The sound approach was that taken with passage of the Clayton Act in 1914. The idea of that legislation was to outlaw the practice from which monopoly results. The Clayton Act contained some defects, however, and these were soon enlarged by enforcement agencies and courts that preferred the Sherman Act method of dealing with monopoly.

Consequently, in 1936 we revised and strengthened the law. We thought we were passing a law which made it illegal for a firm engaged in interstate commerce to discriminate in the prices it charges different buyers, with certain notable exceptions. One of the unvarying exceptions is of course, that the seller may discriminate among his different buyers to the full extent of any differences in costs he may have in supplying the different buyers. Another unvarying exception is that a seller may change his prices as frequently as he likes, and by as much as he likes—just so his changes from time to time are not used as a cloak for concealing favoritism to particular buyers. The law does not dictate how high a price or how low a price a seller may charge, and it is not concerned with whether the seller charges the same or a different price from the price of other sellers. It is concerned only with a seller charging different buyers different prices at the same time.

When we passed the Robinson-Patman Act in 1936, we thought we had solved the problem which is before us today. That law was intended to correct the very same problem which now makes H. R. 11 necessary. But in 1951, the Supreme Court rendered a bad interpretation of the Robinson-Patman Act. In one stroke the Court canceled out much of the protection which we thought we had given small business by the 1936 legislation.

DISCRIMINATION INJURES BOTH SMALL SELLERS AND SMALL BUYERS

Now I would like to describe what we were trying to do, back in 1935 and 1936, when we were drafting the Robinson-Patman Act.

We were having literally thousands of complaints from small-business men about price discriminations, and as you will remember small firms and some pretty big firms were going out of business by the thousands. Well, we made a lot of investigations and held hearings over a period of about 2 years. And we got the Federal Trade Commission to make investigations. They sent investigators out and collected all kinds of price data and interviewed people and made reports. We went into this thing thoroughly—from every possible angle. One thing was certainly clear: We had to have a law on price discrimination and we had to have a really good one.

Now when we started to draft a bill, we found we had two problems. We had the problem of small suppliers trying to compete with big suppliers; and we had the problem of small customers—wholesalers and retailers, and people like that—trying to compete with big customers, like the chain stores.

The problem of small suppliers trying to compete with big suppliers was not new. It was the thing that was made famous by the old Standard Oil Co., and several other big companies about that time. It was the same kind of problem which the 1914 section 2 of the Clayton Act was passed to control, except that we learned a lot of new angles about the problem.

The old Standard Oil Co. started out as a small company. About 1860 or 1865 it was only one of about 30 refining companies then located in the vicinity of Cleveland, Ohio. When the Standard company set out to grow, the first thing it did was to merge with several of its competitors. This gave Standard a big size advantage over all the other competitors. Then what did it do? It would go out into the territory of one of its competitors and cut the price just in that territory, until the competitor was driven out of business. Then Standard would raise the price in that territory and move on to the territory of another competitor. The bigger it got, and the more business it had in high-priced markets, the easier it was to drive out the rest of the competitors. This company got control of more than 90 percent of all the petroleum business in the country before it was finally subdivided by the Supreme Court in 1912.

Well when we were investigating in 1935 and 1936, we found the same sort of thing still going on. Big suppliers were discriminating in their prices and putting smaller suppliers out of business. I will explain why this was when I finish telling you about the practical side of the problem.

Now practically everybody at that time, except some of the big companies, agreed that the kind of practice I have described was wrong. But a lot of people thought that the effects were bad only when a company discriminated to go below a competitor's price. We found out differently. The important thing is not just the price which a company receives for its product, it is also the volume of business it does at that price.

DISCRIMINATIONS TO MEET COMPETITION CAN DESTROY SMALL COMPETITORS

I can best illustrate, perhaps, by an investigation which the FTC made of the wholesale baking industry several years ago. There is a map in the FTC report which shows for example, the Illinois-Indiana area. It shows the truck routes over which the big baking companies were shipping bread out of Chicago to the towns in these States; and it shows the price charged for bread in each town. When the price in Chicago was, say 10 cents, the price at some town 50 miles away would be 9 cents; then at a place another 25 miles away it would be 10 cents again; then at another town, perhaps 100 miles away, it would be 8 cents; and so on. In most towns the price was 10 cents, but in many places it was 9 cents, 8 cents, and in some places 7 cents.

The investigators found that what was happening was this: The big Chicago baking companies were charging 10 cents in all towns where there was no local competition. But when they came to a town where there was a local baker they would drop the price to meet whatever price the local baker charged. The result was that when these big companies started distributing out of Chicago a great many small baking companies went out of business, and others were still going out of business. The point was that when a big bakery started sending trucks into a town and meeting the local baker's prices, the local baker lost a great percentage of his business. He had fixed costs, so with the loss of volume, his unit cost went up, and most likely he was soon in bankruptcy. Obviously, this is not a question of efficiency; it is a question of who is the biggest. Even if the local baker were greatly the more efficient, even if his unit cost for making and selling a loaf of bread were half that of the big baker, the effect would be the same. If the little baker reduced his price further, to try to get back his volume, the big baker would then meet that price, and he would not get his volume back. This is competition of size, not of efficiency. Efficiency would come into play only if, to meet the local baker's price, the big company had to reduce its price everywhere. Then the competition would be on equal terms.

PRICE DISCRIMINATION MAKES INEFFICIENCY

When we were investigating this practice we found the same thing going on in industry after industry. Big suppliers were discriminating in their prices, either to undercut the smaller companies or to meet the prices of the local companies. Sometimes the big companies would meet the price of local companies to put them out of business, and sometimes to make them raise their prices. Where a big company found that a local competitor was selling below its national price, it would meet the price in that area, and if the local company did not show signs of going out of business, then the game of raising prices would start. The big company would lower the boom for a while and then raise it again. If the local company failed to raise its price promptly, then the boom would be lowered again. Before long, after a few ups and downs, the local company would catch on to the fact that it had better raise up to the big competitor's price. Since the big competitor is not going to permit local companies to have more than a certain share of the local market, the only profitable thing they can do is to raise their prices up to the big supplier's price.

Thereafter the same proposition holds: No supplier has any real independence to reduce his price. Discrimination makes it so easy for the big competitors to meet his price, and he knows they will meet his price, and hence he knows he can only lose money and not gain any volume of business by reducing his price. There are only three or four or perhaps one or two big suppliers in each industry which have any independence to reduce prices. This is the thing that keeps prices to consumers high: the centralized control over prices which is maintained by discrimination. This is soft competition.

It is not much trouble to see why the big corporations do not like the anti-discrimination law. These corporations are at the top of the heap and have an unfair advantage over all of the smaller competitors. Many of these giant corporations are fat and lazy, and they would not like to have to compete with smaller companies on the basis of efficiency. Many of them know that if they did have to compete on equal terms the smaller companies would run rings around them.

Many of the big corporations are inefficient. They have a large number of high-priced vice presidents; they have huge advertising and political expenses; and, worst of all, they are snarled up in more bureaucratic redtape than the worst Government bureau we ever had. Many of the managements do not know who their own people are, and most of the underlings have to spend their time making up elaborate reports and reading regulations to find out what authority they have to do what. All of this takes time and money that might be spent in productive work.

HOMETOWN MERCHANTS WERE DESTROYED

Now that is only one side of the coin. When we were drafting the amendments to section 2, we also had the problem of small customers, hometown merchants and wholesalers, trying to compete with big wholesalers and big chain retailers.

This was our greatest problem. It was a matter of grave concern, almost to the point of panic, all over the United States. A few giant chains were rapidly taking over all the distribution business and driving out the independent merchants by the tens of thousands. Most of the State legislatures had taken up this problem, and many of the States passed anti-chain-store legislation of one kind or another in an effort to cope with the problem.

It was easy to see why the big chains were driving the independents out. They were getting price concessions and

secret rebates far beyond anything that was justified by the suppliers' cost differences. Our investigations revealed, for example that prior to 1935 the A. & P. Co. had been receiving on an annual basis $6 million in off-the-invoice discounts and another $2 million a year in brokerage fees on its purchases.

In many instances the big chains were demanding special price concessions and coercing small suppliers into granting special concessions, with threats of putting up their own manufacturing plants. In other instances they were playing the suppliers off against one another, forcing suppliers of nationally advertised products to meet the prices of small, exclusive suppliers who could not, in practice, market to the independent trade. It was overwhelmingly obvious that something had to be done to check this abuse of power and return the competitive contest more to a contest of efficiency.

BOTH SMALL SUPPLIERS AND SMALL MERCHANTS WERE TO HAVE EQUALITY OF OPPORTUNITY

When we drafted subsection (a) of section 2, we drafted it to meet both the problem of competition among suppliers and the problem of competition among customers. In some situations a supplier's discriminations injure another supplier without any effect on the customers. In other situations, a supplier's discriminations injure competition among his customers without affecting his competitors.

In other situations, a supplier's discriminations may injure both his competitors and his customers. Then, of course, there may be other situations where a supplier's discriminations injure neither competitors nor customers. If the customers are not in competition with one another, there is no injury there. And if the discriminations do not put a small competitor to a substantial disadvantage, there is no injury there.

Subsection (a), then, contains the general prohibition against price discrimination. We did not prohibit all price discriminations. And we did not prohibit discriminations which do only minor injuries. In other words, we did not want to trouble business about picayunish matters. But where the injury is substantial, the language is tight, and it was meant to be tight. I will quote the language as follows:

> Where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them.

On the other hand, we wrote into the bill a positive exemption for discriminations which are justified by differences in the supplier's costs. We did not want to be accused of interfering with efficiency anywhere in the economic system, and in fact we did not want to interfere with efficiency. We were not trying to make any advantage for small business, not even to offset the advantages which big business had enjoyed in the previous decades. We merely wanted to give small business an equal opportunity, or at least something approaching an equal opportunity.

OLD PROMISES TO SMALL BUSINESS

Why, we wondered, had this not been done before? What had happened to the promises made to small business in the political campaigns of 1912, and what had happened to the laws passed in 1914 which were supposed to fulfill these promises?

Certainly the promises had been made. There were strong "small business" and "antimonopoly" planks in the platforms of all three major parties participating in the 1912 presidential campaign—The Democratic Party, the regular Republican Party, and the "Bull Moose" Republican Party. Since the Democrats won the election in that year, I might read from its platform. It promised legislation for—and I am quoting—"the prevention of holding companies, of interlocking directorates, of stock-watering, of discriminations in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions"—Democratic platform of 1912.

Most of these promises were fulfilled, or were clearly intended to be fulfilled, by passage in 1914 of the Clayton Antitrust Act and the FTC Act. Section 2 of the Clayton Act dealt specifically with the practice of price discrimination.

I would like to read you what President Wilson wrote in a private letter shortly after he signed the Clayton and FTC bills:

> With similar purpose and in a like temper the Congress has sought, in the Trade Commission bill and in the Clayton bill, to make men in a small way of business as free to succeed as men in a big way, and to kill monopoly in the seed. * * * It is our purpose to destroy monopoly and maintain competition as an only effectual instrument of business liberty. * * * (Woodrow Wilson letter of October 17, 1914, the Public Papers of Woodrow Wilson, vol. III, pp. 189–190.)

"GOOD FAITH" PROVISO DESTROYED THE CLAYTON ACT

Certainly something had gone wrong with section 2 of the Clayton Act between 1914 and 1935. What had gone wrong? The fact is that section 2 of the Clayton bill contained a proviso which said that nothing contained in the law would prevent discriminations "made in good faith to meet competition."

As matters turned out, this harmless-sounding proviso meant that suppliers could do about anything they pleased. The "good faith" phrase of the proviso was interpreted by the courts in the same way the Sherman Act had been interpreted with respect to "attempting to monopolize." In short, the law on price discrimination, which was passed because the Sherman Act had failed, became no more than the Sherman Act. Lack of "good faith" could be proved only by proving an evil intent. In reality the new law provided some restraint against a big corporation's going on an open march to take over, perhaps, 90 percent or 100 percent of a whole industry. But for big corporations with a mere 10, 30, 50, or 80 percent of the market, it could rarely be proved that their discriminations were made with an intent to monopolize.

The courts could see no reason for inferring that a supplier might have some evil objective as to the distant future, when the supplier had immediately at hand the wholesome objective of getting more business and more profits. The point of the law, which was to outlaw a particular method for getting more business and more profits was lost sight of; all that counted was the corporation's intentions, its absence of any intent to monopolize. This deterioration in the law had become clear by the time of the depression following World War I. Congress did nothing about it, and the courts assumed, as they rightfully would, that they had interpreted the law the way Congress meant it to be interpreted. The law was largely a nullity.

MEANING OF THE NEW "GOOD FAITH" PROVISO

When we drafted the Robinson-Patman Act it was the "good faith" proviso above all else that we meant to correct. The legislative history of the act supports me in this statement in copious degree.

We certainly intended to eliminate the nullifying effects of this "good faith" proviso. We did however, write a new "good faith" proviso into the law—in a new subsection (b)—which was to operate as a self-defense justification. The Senate and House bills, as originally passed, differed on this point. There was a conference; the conference committee accepted the House version, and this is the version that passed.

The manager of the House conferees brought back a report which explained the meaning of this language at great length and with great clarity and precision. After that report there should never have been any misunderstanding or dispute as to what the "good faith" proviso of the Robinson-Patman Act means. I should like to read three small excerpts, if I may, from that report. Referring to the subsection 2 (b) proviso, the report said:

> This does not set up the meeting of competition as an absolute bar to a charge of discrimination under the bill. It merely permits it to be shown in evidence. This provision is entirely procedural. It does not determine substantive rights, liabilities, and duties. They are fixed in the other provisions of the bill. It leaves it a question of fact to be determined in each case, whether the competition to be met was such as to justify the discrimination given, as one lying within the limitations laid down by the bill, and whether the way in which the competition was met lies within the latitude allowed by those limitations. (CONGRESSIONAL RECORD, 74th Cong., 2d sess., June 15, 1936, p. 9418.)

Furthermore, this report went on to point out some of the circumstances which would not be condoned by the proviso:

> This procedural provision cannot be construed as a carte blanche exemption to violate the bill so long as a competitor can be shown to have violated it first, nor so long as that competition cannot be met without the use of oppressive discriminations in violation of the obvious intent of the bill (op. cit.).

Then, conversely, the report points out one of the factual circumstances which must be present when the "good faith" defense might be found to justify a discrimination and thus serve as a bar to a cease and desist order. Now I hope that the Members will take careful note of these words, because in a few moments I will call attention to what the Supreme Court did with these words in a majority opinion in the Standard Oil (Indiana) case. The report states:

As in any case of self-defense, while the attack against which the defense is claimed may be shown in evidence, its competency as a bar depends also upon whether it was a legal or illegal attack (op. cit., p. 9413).

LAWFUL CONDUCT SHOULD NOT JUSTIFY UNLAWFUL CONDUCT

Now, what does this mean?

Let us suppose that I am walking along the street back home during a campaign and I meet my opponent and he attacks me in some unlawful way. Will I be justified in using an unlawful method to defend myself? Yes, of course, but this will depend upon all the circumstances. It will depend upon the nature of the attack, the methods of defense that are available to me, and the method I actually use. If my opponent were a big burly athlete, 7 feet all, I might be justified in hitting him with a club, although he attacked me only with his fists. But I would not be justified in continuing to rain blows on him after he is knocked out. In any case, I have the burden of proving my justification in court later. I will have to prove that he attacked me first, and that he attacked me unlawfully. And I would have to prove that I did nothing more than was necessary under the circumstances, to defend myself until such time as I could get the legal authorities to stop my opponent's unlawful attack.

Now let us suppose that I see my opponent coming along the street and he is unarmed, but I have a gun. He has not attacked me in any unlawful way, but I know that he has been trying to win over some of the voters who have supported me in past elections. So I pull out my gun and start shooting at him and I hit several innocent bystanders. Let us suppose further that my opponent takes cover behind a tree, and then I make myself comfortable and begin taking some leisurely potshots at that tree. I know that as long as I keep my opponent pinned behind that tree he cannot be out winning over more of the voters. So I continue taking potshots, and every now and again I hit an innocent bystander. I hit a lot of small children, particularly, who are not big enough to look out for themselves.

THE STANDARD OIL (INDIANA) OPINION

It might seem silly to ask if my conduct in this supposed situation would be justified, yet we cannot avoid these conclusions:

First, if I had been before the Supreme Court in place of Standard Oil (Indiana) in 1951, the Court would have told me that I was perfectly justified in using my unlawful method in attacking my opponent, just so long as my opponent had used no unlawful method in attacking me, and I was using this method for the purpose of retaining the support of voters who had supported me in the past.

Second, if the policemen who tried to stop me from shooting a lot of innocent bystanders had been before the Supreme Court in place of the FTC in 1951, the Court would have told those policemen that I was right, that they could not interfere with me until they first made a finding whether I was acting in self-defense, and that I would be acting in self-defense if I used this otherwise unlawful method to attack an opponent who had not used any unlawful method, but who was lawfully trying to take the support of voters that I wanted to retain.

These are almost precisely the things the Supreme Court told the Standard Oil Co., and the FTC in the Standard Oil (Indiana) decision. Now what were the facts?

The discriminations were taking place in Detroit, Mich. Standard was selling to certain of its retail dealers in Detroit at a much lower price than it sold to its other retail dealers in Detroit. Standard had no cost justification for making the different prices. The favored dealers naturally were able to reduce their prices to consumers, and Standard intended that they would reduce their prices to consumers. As a consequence, the favored dealers were taking trade away from Standard's other retail dealers and putting these dealers out of business. These were the innocent bystanders. Why was Standard commercially shooting innocent bystanders? It was meeting the prices of the Red Indian Co.

Red Indian is a small Michigan distributor of off-brand gasoline. The price of its gasoline to consumers was normally several cents below Standard's price. Standard was the principal marketer of gasoline in the Midwest, and its market covered 14 States. Standard was not reducing its price in all of these States, and it was not reducing its price throughout the city of Detroit; it was reducing its price just in those neighborhoods of Detroit where there were stations selling Red Indian gasoline. There was no evidence that Red Indian discriminated in its price; in fact, Standard's attorneys told the Supreme Court that Red Indian had not been making unlawful prices.

Now what happened? How did the law get into such a snarl?

THE SUPREME COURT CONFUSED SELF-DEFENSE

The Supreme Court's ruling on this question we already know. The Court ruled with Standard. It told the policemen that they could not interfere with Standard's activities until they made a finding whether or not Standard's discriminations were made in good faith. And it told us all what "good faith" means. It told us that "good faith" means "self-defense," and that "self-defense" means that a supplier is justified in resorting to the unlawful method of pricing to defend itself against a competitor who has used no unlawful method. Why did the Court think such a topsy-turvy notion of self-defense as this to be sound? Let the majority opinion speak:

It is enough to say that Congress did not seek by the Robinson-Patman Act either to abolish competition or so radically to curtail it that a seller would have no substantial right of self-defense against a price raid by a competitor. For example, if a large customer requests his seller to meet a temptingly lower price offered to him by one of his seller's competitors, the seller may well find it essential, as a matter of business survival, to meet that price rather than to lose the customer. It might be that this customer is the seller's only available market for the major portion of the seller's product, and that the loss of this customer would result in forcing a much higher unit cost and higher sales price upon the seller's other customers. (*Standard Oil (Indiana) Co.* v. *FTC.* (340 U. S. 231).)

Thus my analogy holds. Since we may assume that I may need the votes of those supporters down in my district, for reelection, then I am justified in attacking my opponent by a normally unlawful method, provided he has used no unlawful method to attack me, and the innocent bystanders I may shoot have no rights.

THE COURT CONFUSED VESTED INTEREST WITH COMPETITION

Now comes the bitterest pill of all. Here is the Court declaring that a supplier has a vested right in the continuing patronage of the people who have bought from him, so much so that he is justified in using the method of pricing we condemned as an instrument of monopoly. Here is the Court telling the innocent bystanders we sought to protect from abuses of monopoly power that their rights are secondary to the rights of a supplier who may need to use his monopoly power to retain customers.

Well this I can say: When we passed the Robinson-Patman Act, we thought we were passing a law for competition and against monopoly; and I have not heretofore known of any theory of competition which holds that a supplier has a vested right in the continuing patronage of his customers, so much so that he can resort to a method of competition by which the small competitors will always lose out and the big competitors will always win.

THE COURT MISREAD ITS STALEY OPINION

How did the Supreme Court arrive at the construction of self-defense it reached in the Standard Oil (Indiana) opinion? Its official sources were, for the most part, those I have cited—principally the report filed by the manager of the House conferees on the bill, Mr. Utterback. It also appears however, that the Court had been educating itself with some of the writings of propagandists working for a lobby which has been out to wreck the antitrust laws. And finally, it appears that the Court misread its 1945 opinion in the Staley case, a unanimous opinion written by the late Chief Justice Stone.

As I read part I of the Staley opinion, the Court rejected Staley's plea that this company was justified under the 2 (b) defense in adopting in toto a competitor's illegal basing-point system of pricing, for the reason that the Court clearly thought both Staley and its competitor

were merely making a simultaneous raid on the consumer's pocketbook. The facts before the Court did not suggest that Staley's discriminations were made for the purpose of defending itself against an unlawful attack by its competitor, nor against an attack of any kind. Nor did the facts suggest that Staley was attacking its competitor. Furthermore, the Court was presumably aware, as the briefs in the lower court had pointed out, that several years before this case was brought, Staley and its competitor had entered into a consent decree with the Department of Justice, agreeing to terminate an illegal combination and conspiracy among themselves to use this same basing-point pricing system. The Staley opinion held that although Staley's competitor had adopted an illegal pricing system first, that fact did not justify Staley in adopting the illegal pricing system. In short, all this opinion said was that I am not justified in burglarizing your house simply because someone else started burglarizing your house first. The Court said that the contrary argument with which it was presented was astonishing and pointed to the report of the manager of the House conferees on the Robinson-Patman bill where it is specifically stated that "one violation of law does not justify another."

When it came time to decide the Standard Oil (Indiana) case however, the Court apparently thought that it had held in Staley that an unlawful price is never justified to meet a competitor's unlawful price. Moreover, since the report on which the Court leaned had stated that self-defense depends upon whether the attack being met is "a legal or illegal attack," the Court apparently thought that the answer must be that a seller is justified in discriminating to meet a legal attack. But this of course tends to render the law a nullity. If the principle were to be adhered to completely, it would render the law a nullity; so at best the majority opinion in Standard Oil (Indiana) has created confusion and greatly weakened the law.

THE PROBLEM IS UP TO CONGRESS

Our problem now is what to do about the error in the Standard Oil (Indiana) decision.

H. R. 11 is to amend subsection 2 (b) of the Robinson-Patman Act. The intent of the bill is to accept the Standard Oil (Indiana) opinion up to the point where the effects of a discriminatory price reach a certain degree of seriousness, but to put a limit on the good-faith defense, so that it will not be a bar to a cease-and-desist order where the effects of the discrimination go beyond this degree of seriousness. This degree of seriousness is at the point where, in the language of the bill:

> The effect of the discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce.

The bill does nothing more than that. The protection which this language would give falls far short of the protection which the language of the prohibition in subsection 2 (a) would offer. The language there refers to discriminations:

> Where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them.

In other words, H. R. 11 says that the supplier will be justified in shooting at his competitors who try to take his customers by lawful means, and in shooting a few innocent bystanders, but if he reaches the point where he is about to make a substantial reduction in the population, then he will no longer be justified.

Let us turn now to a more detailed history of the price-discrimination problem, the laws which have been passed to cope with this practice, and the key decisions in which the courts have sought to interpret and apply these laws.

FAILURES OF THE SHERMAN AND CLAYTON ACTS

Corporations were originally provided for under the State laws as a means whereby the towns and cities could carry on and finance municipal services. Shortly before the Civil War, a few business firms began incorporating themselves under these laws—to carry on profitmaking enterprises—and by the end of the Civil War several of them had amassed great wealth. By 1890 a few, such as in petroleum, tobacco, and sugar products, had come to have near-complete monopolies in their line of commerce.

This accidental use—or misuse—of the State laws would probably be universally applauded today. The corporate form of business permits the aggregation of much larger amounts of capital than could be gathered together by groups of closely associated individuals. There seems no question but that large aggregations of wealth are necessary to many types of undertakings, and to operations on a scale required for efficient production and distribution methods. At the same time, however, the corporate form lends itself to almost limitless possibilities for monopolization.

Since the rise of the big corporations, there has been more or less constant public concern over the growing tendency for economic activities outside the agricultural realm to become monopolized.

EARLY ATTEMPTS TO OUTLAW ABUSES

After a long history of notorious abuses, the railroads were put under a degree of public control in 1887 with the passage of the first Interstate Commerce Act. At the same time hopes began to take shape for Federal laws which would prevent monopoly in other industries, so that competition would perform the kind of natural and automatic regulation which had long been a national ideal. There were high hopes that passage of the Sherman Act of 1890 would accomplish this ideal.

By that time the most alarming development had been the so-called trust, an arrangement whereby rival companies pooled their stocks and placed themselves under the control of a single management. But there was by then also a wide public understanding of several of the commercial practices by which firms that preferred independence were destroyed or driven unwillingly into the trust. One of the most effective and notorious of these was the practice of price discrimination. Clearly this practice was an abuse of size. It was a practice by which the bigger manufacturers could and did destroy their smaller competitors without respect to their efficiency or other merits. The practice also took shape in disastrous consequences when big companies arranged with monopolistic suppliers of raw materials, or essential services, to receive price concessions, rebates, and so forth, which were not allowed their smaller competitors. Indeed, when the old Standard Oil trust let it be known that it had concluded arrangements to receive preferential freight rates from certain of the railroads, this news alone was sufficient to Standard's remaining independent competitors to capitulate and join in the trust.

When the Interstate Commerce Act of 1887 was passed, it was framed to prohibit a seller of common-carrier services from discriminating in the price of its services under circumstances and conditions, by granting shippers "any special rate, rebate, drawback, or other device," section 2, Twenty-fourth United States Statutes at Large, page 379.

And, by the amendment to this act of June 29, 1906, the customers of the railroads were likewise forbidden to receive or accept discriminations "by or through any means or device whatsoever, any sum of money or any other valuable consideration as a rebate or offset against the regular charge," Thirty-fourth United States Statutes at Large, page 587.

Moreover, this law has come to mean that the railroads were prohibited from discriminating between shippers similarly situated not just when the carrier had some reason for being partial to one shipper rather than another, but also when there is a competitive condition which would induce the carrier to discriminate between competing shippers. Thus in *Barringer & Co.* v. *United States* (319 U. S. 16, dec. 1942) Mr. Chief Justice Stone noted that the law not only prohibited differentiating between purchasers on the basis of their identity but that it prohibited differentiating on the basis of competitive conditions which may induce a carrier to offer a reduction in rate to one shipper while denying it to another similarly situated.

THE SHERMAN ACT WAS TOO VAGUE

The Sherman Act of 1890 made illegal "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade." And it also made illegal to "monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade."

There was some basis therefore in the law, so a number of prominent writers have thought, for stopping those monopolistic practices which could be resorted to only in an attempt to monopolize. So, for example, might wholesale

price discriminations have been brought under this law but they were not. As late as 1927, long after the Clayton Act was passed, the Supreme Court invalidated a statute of the State of Minnesota which prohibited price discrimination on the ground that it interfered with the right of contract. Compare Wallace and Douglas, Antitrust Policies and the New Attack on the FTC, University of Chicago Law, Revised, volume 19, No. 4, 1952, page 719.

Following enactment of the Sherman Act there was much legislation in the States and many official investigations. Between 1906 and 1913, there were exhaustive investigations and reports by the Federal Bureau of Corporations into the petroleum, tobacco, steel, farm implement, and other industries. In addition the evidence that was made public in the exhaustive trials of Standard Oil and the American Tobacco Co. which culminated in the Supreme Court decisions of 1911, dramatically demonstrated the part which price discrimination had played in bringing about monopolies in these industries. The company which attracted the greatest popular attention was the old Standard Oil Co. This company had started out just prior to the Civil War as only 1 of some 30 or 35 refining companies located in Cleveland, Ohio. Between 1870 and 1882 it achieved a 90-percent monopoly of all the refined petroleum products distributed in the United States. Clearly the evidence showed that after this company had gained the substantial size advantage over its competitors—largely by merging with competitors—it had abused its size advantage by cutting prices in one area at a time until its independent competitors were either driven out of business or capitulated and merged with the Standard combine. Mr. Brandeis, later Justice Brandeis, testified in 1914 that discrimination was the most powerful weapon that the Standard Co. had had.

Be that as it may the Sherman Act was never interpreted as prohibiting the monopoly practice itself. And indeed the phrase "attempt to monopolize" was not interpreted to stop monopolistic practices until a monopoly had reached such a near stage of maturity that the intent of gaining a complete monopoly was unmistakable. Thus the Supreme Court reviewed the voluminous evidence of Standard's monopolistic practices and condemned not the practices themselves by drawing inferences from all of these practices taken together plus the fact that Standard had obtained a monopoly, condemned Standard's evil intent. Indeed Standard's attorneys argued that Standard had done what it had done in good faith, that—

> Defendent's control was but the result of lawful competitive methods, guided by economic genius of the highest order, sustained by courage, by a keen insight into commercial situations, resulting in the acquisition of great wealth, but at the same time serving to stimulate and increase production, to widely extend the distribution of the products of petroleum at a cost largely below that which would have otherwise prevailed, thus proving to be at one and the same time a benefaction to the general public as well as enormous advantage to individuals (221 U. S. 1, p. 84).

From the overwhelming evidence of Standard's activities and the results which were brought about by these activities the Supreme Court ruled that Standard had attempted to monopolize:

> All lead the mind up to a conviction of a purpose and intent which we think is so certain as practically to cause the subject not to be within the domain of reasonable contention (supra, 77).

DEMAND FOR LAWS AGAINST MONOPOLY PRACTICES

Following the Supreme Court decisions in the Standard Oil and other cases in 1911 public concern over the monopoly problem was heightened rather than lessened. There had grown up a great body of public opinion supporting the idea that the specific acts and practices which led to monopoly should be prohibited rather than waiting for monopoly to grow into full flower with the understanding that attempts would then be made to dissolve the monopoly. There was moreover a great popular demand for such legislation to outlaw specific unfair and monopolistic practices. In the presidential campaign of 1912 the platforms of the three major political parties of that year called for such legislation. It was in response to this demand that the Federal Trade Commission Act and the Clayton Act of 1914 were passed. Congress wrote in a blanket clause against "unfair methods of competition" to cover other practices which had not yet been defined as those leading to monopoly.

On January 26, 1912, at the hearings on H. R. 11380, etc., before the Committee on the Judiciary of the House of Representatives, Mr. Louis D. Brandeis, who later became a Justice of the Supreme Court, testified as follows:

> Mr. BRANDEIS. * * * to get a monopoly by getting a competitor out of the way. That is not competition; that is destruction. It is not the purpose of competition at all; it is destruction. Now, it seems to me perfectly clear, as a general proposition, that what we must do in dealing with business, with the liberty of a business, is precisely the same as what we must do in liberty of the individual. Any one of us might be knocked down when we go through the streets by somebody who is a good deal stronger than we are. I am certain I might be so knocked down. The law undertakes to restrain the liberty of that physically strong individual by not allowing him to exercise his right to do as he pleases and prevent his knocking me down, unless it should be in self-defense or in some other justification or infringement of his rights. What is done there? That is the regulation, the restriction, of the liberty of one which is absolutely essential to the preservation of the liberty of the other. Now, that same principle applies, of course, in business. If a man who is strong, who has the endurance which comes with size and with wealth, is allowed to use that against an individual, that is not competition. Competition consists in being able to do the thing better—either cheaper or in quality better, in service better—than the other person; that is competition. The Standard Oil Co., did not compete with those individuals when it went in and destroyed them. They committed industrial murder just as much as the man who physically used his strength to put an end to the persons about him.

The Clayton Act of 1914 originated with the bill, H. R. 15657, introduced by Mr. Clayton on April 14, 1914, 51 CONGRESSIONAL RECORD 6714. Section 2 of this bill prohibited discrimination in price between different purchasers, with the purpose or intent to destroy or wrongfully injure the business of a competitor of either the purchaser or the seller. Section 2 did not contain any proviso excepting discriminations made in good faith to meet competition.

H. R. 15657 was reported out on May 6, 1914, and the report—House Report No. 627, 63d Congress, 2d session, pages 8–9—showed that the section 2 prohibition of price discrimination was confined to a well-known, common, particular form of discrimination. Thus, the report stated, in part:

> Section 2 of the bill is intended to prevent unfair discrimination. The necessity for legislation needs little argument to sustain the wisdom of it. In the past it has been a most common practice of great and powerful combinations engaged in commerce—notably the Standard Oil Co., and the American Tobacco Co., and others of less notoriety, but of great influence—to lower prices of their commodities, oftentimes below the cost of prices of production in certain communities and sections where they had competition, with the intent to destroy and make unprofitable the business of their competitors, and with the ultimate purpose in view of thereby acquiring a monopoly in the particular locality or section in which the discriminating price is made. Every concern that engages in this evil practice must of necessity recoup its losses in the particular communities or sections where their commodities are sold below cost or without a fair profit by raising the price of the same class of commodities above their fair market value in other sections or communties. Such a system or practice is so manifestly unfair and unjust, not only to competitors who are directly injured thereby but to the general public, that your committee is strongly of the opinion that the present antitrust laws ought to be supplemented by making this particular form of discrimination a specific offense under the law when practiced by those engaged in commerce.

Senate Document 583, made the same statement for the Senate Judiciary Committee in its report on H. R. 15657.

In its report upon the bill to enact the Clayton Act—Senate Report No. 695, 63d Congress, 2d session, July 22, 1914, to accompany H. R. 15657, page 1—the Senate Committee on the Judiciary said:

> Broadly stated, the bill, in its treatment of unlawful restraints and monopolies, seeks to prohibit and make unlawful certain trade practices which, as a rule, singly and in themselves are not covered by the act of July 2, 1890 (the Sherman Act) or other existing antitrust acts and thus, by making these practices illegal, to arrest the creation of trusts, conspiracies, and monopolies in their incipiency and before consummation.

During the debate on the bill in the Senate, the following identification was made of the particular form of discrimination to be prohibited by section 2:

> Mr. WALSH. * * * Section 2 refers to that form of unfair competition generally denominated as local price cutting. * * *
>
> Perhaps the most conspicuous offender in the matter of unfair competition by local price cutting has been the great Standard Oil Co. (51 CONGRESSIONAL RECORD 14099).

"GOOD FAITH" DESTROYED THE CLAYTON ACT

With this evidence before us showing that the section 2 prohibition was confined to a "particular form of discrimination," the debates in the House and

the Senate make it clear that the "good faith meeting of competition" proviso, when it was later inserted in the bill by the Senate Judiciary Committee, was not understood or intended by Congress to legalize discriminations that were prohibited. Thus, the following colloquy occurred during the debate in the House:

Mr. STAFFORD. As I understand it, the purpose here is to provide a uniform price for all persons and customers for the same quality of goods?

Mr. WEBB. And under like conditions.

Mr. STAFFORD. About which there cannot be any competition at all, so far as the seller is concerned, in meeting the competition of some other corporation?

Mr. WEBB. Oh, yes; if he meets the competition of some other person, he is not meeting that competition for the purpose of destroying or wrongfully injuring his competition (51 CONGRESSIONAL RECORD 9096).

* * * * *

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I desire to offer an amendment * * * [The clerk read] after the word "shall," insert the words "except in lawfully meeting competition" * * * (ibid. 93899).

It has been held in some of the cases that have been tried that wherever prices are cut below cost that is unfair trade practice; but where a man meets another's price in protecting his business in a district with a price, it is his lawful right and privilege, and it is the object of competition that he should meet his price * * *(ibid. 9389).

* * * * *

Mr. WEBB. Mr. Chairman, we hope this amendment will not be adopted, because in our opinion it adds nothing to the section. We think under the provisions of the section any man who honestly meets competition is not thereby intending to destroy or wrongfully injure any other person. If that is his object, meeting honest competition, this section will not hurt him * * * (ibid. 9389).

* * * * *

Mr. GARDNER. Would the adoption of the amendment offered by the gentleman from Pennsylvania [Mr. Graham] open the door to the practices which you seek to prevent by section 2?

Mr. WEBB. It might be a suggestion to the parties that that could be done. * * * I oppose the amendment because, as I have said, I think the amendment of the gentleman from Pennsylvania is useless and unnecessary.

The question was taken, and the amendment was rejected (ibid. 3990).

The Senate Committee on the Judiciary added a good faith meeting of competition provision to section 2 of the House bill so that the section 2 prohibition would not prevent "discrimination in price in the same or different communities made in good faith to meet competition and not intended to create monopoly."

The Senate committee report—No. 698, 63d Congress, 2d session, pages 43–44—explained this addition as follows:

After full consideration it is deemed advisable to enlarge the exception in the first proviso to the section by adding * * * "discrimination in price made in good faith to meet competition and not intended to create monopoly" upon the ground that the enlargement will tend to foster wholesome competition.

The debate in the Senate on H. R. 15667 as amended by the Senate Committee on the Judiciary, included the following regarding section 2:

Mr. CUMMINS * * *

Made in good faith to meet competition. * * *

Imagine the Government endeavoring to prove that a particular instance of price cutting was not made in good faith to meet competition * * *. (51 CONGRESSIONAL RECORD 14228).

* * * * *

Mr. REED. * * * Manifestly, if two men are in competition at a given place— let us say the Standard Oil Co. and an independent company—and the independent company should drop the price of gasoline to 11 cents, and the Standard Oil Co. should meet it, that would be an act done in good faith to meet competition. If, however, the Standard Oil Co. were to drop the price of gasoline to 5 cents, a price less than the article could be produced for, and kept it up to 11 or 12 cents somewhere else, and carried it out and kept it up so that it drove the independent concern out of business, there would not be any difficulty at all in a jury finding that they did not do it in good faith. I will undertake, in any reasonably plain case, any outrageous case, to get a verdict every time under that section (Ibid, 14228).

Mr. CUMMINS. * * * but we are not making this law to arrest the progress of monopoly in outrageous cases only. We are making it to preserve competition (ibid 14228).

* * * * *

We might just as well have said * * * that the seller can do anything that he desires or pleases to meet competition that is not in violation of the antitrust laws; if it is in violation of the antitrust law, we need no further condemnation or penalty. We have wound up this section practically by saying that the seller can do whatsoever he pleases with regard to his business, provided he does not violate the antitrust law; and yet this is one of the sections that have been proposed to strengthen the antitrust law, to add to the antitrust law, to accomplish the purpose of the antitrust law by forbidding something that is not now forbidden by the States (Ibid 14250).

The conference report, Senate Document No. 585, eliminated from the good faith proviso the language "and not intended to create monopoly," volume 51, CONGRESSIONAL RECORD, page 15637. During the debate on the conference report in the Senate, the following criticisms of the good faith proviso made:

Mr. STERLING. * * * Passing the paragraph or proviso which permits discrimination in price because of differences in grade, quality, or quantity, or differences in cost of selling or transportation, I come to this significant provision injected by the committee, namely, the provision which permits "discrimination in price in the same or different communities made in good faith to meet competition." It is easy to conceive of the multitude of sins that may be covered by that broad and generous cloak * * * (Ibid, 16115).

* * * * *

* * * Think of it. It can always be urged against the charge of unlawful discrimination that it was done for the purpose of meeting competition. "We found our competition charging a certain price for his goods. We cut the price of ours, below cost even, to meet his competition. What have you got to say about it under this law?"

PURPOSES OF THE ROBINSON-PATMAN ACT

In the 20 years following passage of the Clayton Act, section 2 did indeed prove to be a failure. Discriminatory practices increased, if anything, and spread to new industries as these became more monopolistic. The prevalence of this evil and its destructive effects upon small business are set out in an overwhelming mass of evidence in some 30 volumes of factual studies submitted to Congress by the Federal Trade Commission and by the hearings on the Robinson-Patman bills. In one case brought by the FTC the record shows that over a period of 7 years the Goodyear Tire & Rubber Co. had sold tires to Sears, Roebuck at a price which averaged 40 percent less than Goodyear had charged Sears' competitors—compare House Report No. 2287, 74th Congress, 2d session, page 4. Evidence in the more recent Sherman Act suit against A. & P. shows a list of 300 manufacturers who, prior to 1935, were selling their products at prices ranging between 5 and 20 percent below those these suppliers received from A. & P.'s competitors—67th Federal Supplement, page 626, 1946; see Government exhibit 11.

Two provisos in section 2 of the old Clayton Act proved to render that section of the law almost a nullity. One of these was the proviso which exempted differences in prices on account of differences in quantities sold.

It had been assumed that this proviso was intended to permit price differences up to the amount of the seller's cost savings on quantity sales, and was generally so interpreted during most of the life of this statute. This interpretation had been seriously challenged shortly before passage of the Robinson-Patman Act, however, in *Goodyear Tire and Rubber Co.* v. *Federal Trade Commission* (304 U. S. 257), and shortly after passage the United States Court of Appeals for the Sixth Circuit rendered its opinion in this case, holding that a seller may discriminate in prices between purchasers in different quantities without reference to his cost differences.

The other proviso which proved to make section 2 nugatory was that pertaining to the good faith meeting of competition.

THE OLD LAW APPLIED TO INJURY TO RESELLERS

It is now sometimes said by careless or intentionally misleading students of the antidiscrimination law, that section 2 of the Clayton Act of 1914 applied only to injury to the discriminating seller's competitors, and that a purpose of the Robinson-Patman amendment was to extend the law to cover injury among the seller's customers. This is completely erroneous.

It is true that the argument was at one time made that section 2 of the old Clayton Act ran only against the effects of discrimination upon competition of the discriminator and that it ignored effects upon competition at the resale level.

It is also true that the United States Court of Appeals for the Second Circuit adopted this theory in 1923 and 1924 in the *Mennen Co.* (288 Fed. 774) and *National Biscuit* (299 Fed. 733) cases. This argument was completely dispelled in 1929, however, when the issue reached the Supreme Court in *Van Camp & Sons* v. *American Can Co.* (278 U. S. 235, decision January 2, 1929). In this case the Supreme Court unanimously held that

section 2 of the Clayton Act of 1914 was as much concerned with competition among customers of the seller making the discrimination as it was concerned with competition among the seller and his competitors. Thus this point was settled law 7 years prior to the Robinson-Patman Act, as the Court's opinion at page 254 unmistakably indicates:

These facts bring the case within the terms of the statute, unless the words "in any line of commerce" are given a narrower meaning than a literal reading of them conveys. * * * The contention is that the words must be confined to the particular line of commerce in which the discriminator is engaged, and that they do not include a different line of commerce in which purchasers from the discriminator are engaged in competition with one another. * * * The fundamental policy of the legislation [Clayton Act] is that, in respect of persons engaged in the same line of interstate commerce, competition is desirable and that whatever substantially lessens it or tends to create a monopoly in such line of commerce is an evil. Offense against this policy, by a discrimination in prices exacted by the seller from different purchasers of similar goods is no less clear when it produces the evil in respect of the line of commerce in which they are engaged than when it produces the evil in respect of the line of commerce in which the seller is engaged. In either case, a restraint is put upon the freedom of competition in the channels of interstate trade which it had been the purpose of all the antitrust acts to maintain *Federal Trade Commission* v. *Beech-Nut Co.* (257 U. S. 441, 454).

There is no question but what most of the congressional concern, and most of the factual investigation leading up to passage of the Robinson-Patman Act, pertained to competitive problems among wholesalers and retailers. This was the primary public concern. The monopoly movement which had taken place in the mining and manufacturing fields in the 2 or 3 previous decades was at that time rapidly advancing into the distribution fields. A few giant chains were taking over the functions of independent wholesalers and retailers at a spectacular rate, and with a great deal of popular concern. The States were enacting a variety of laws seeking to cope with this menacing trend, including special chain-store taxes of one kind or another. In 1928 the Senate passed a resolution—Senate Resolution 224, 79th Congress, 1st session—directing the Federal Trade Commission to make a full-scale investigation into the reasons for the rapid monopolization of the distribution field, and over the next 6 years the FTC submitted to Congress more than 3 factual studies on its chainstore investigation. These studies revealed price discrimination to be the principal evil behind the growing monopolization of the distribution fields, while the Commission's studies were centered upon resellers—wholesalers and retailers—its findings however, pointed to the chain store's discriminations as a weapon for destroying competing sellers, no less than they pointed to the chain's practice of extracting discriminatory prices from their suppliers.

With reference to the chains receiving an unearned advantage from discriminations of their suppliers, the Commission found—compare Senate Report No. 293, 72d Congress, 1st session, pages 8–9:

1. That it had been persistent policy of the chain stores to seek out and demand special and unwarranted price concessions on the goods they bought.

And with reference to the discriminations as a seller's weapon against competitors, the FTC found:

2. That the chains in many instances discriminated in the resale of merchandise by maintaining higher prices in localities where competition was absent or weak, and cutting prices aggressively in those localities where aggressive competition was encountered.

Moreover, the report of the House Committee on the Judiciary accompanying the Patman bill, after extensive hearings on discrimination problems, expressed equal concern with the plight of "independent" manufacturers as with "independent" merchants:

Your committee is of the opinion that the evidence is overwhelming that price discrimination practices exist to such an extent that the survival of independent merchants, manufacturers, and other businessmen is seriously imperiled and that remedial legislation is necessary. (H. Rept. No. 2287, 74th Cong., 2d sess., on H. R. 8442, p. 3.)

PURPOSES OF CHARGES IN SECTION 2 (A)

While there was no question such as is now sometimes imagined—that the old Clayton Act treated "injury" among customers in some way different from "injury" among competitors—entering into the considerations of the Robinson-Patman Act amendment, there were in fact several major reasons for this amendment. Taking up those effectuated by the language of subsections (a) and (b), they were as follows:

First. To eliminate the possible exemption for discriminations made "on account of" different "quantities sold," and substitute therefor an exemption for differences in the sellers' costs.

Second. Broaden the scope of the act to cover intrastate "injury" to competition, insofar as there is Federal jurisdiction.

Third. To broaden the scope of the act to cover "injuries" to individual competitors, in contrast to the requirement of the old Clayton Act that a general injury to competitive conditions in a line of commerce be shown.

Fourth. To give the FTC an additional weapon for coping with discriminations on quantity purchases, as is expressed in the quantity limit proviso and subsection (a).

Fifth. To eliminate the nullifying effects of the "good faith meeting of competition" proviso of the old act.

The two provisos of the old act providing exemptions for discrimination made on account of "quantities sold" and for "good faith meeting of competition" were considered to be the principal loophole of the old law. Speaking of the two provisos, the House report on the Patman bill said:

These provisos have so materially weakened section 2 of that act, which this bill proposes to amend, as to render it inadequate, if not almost a nullity. Some of the difficulties of enforcement of this section as its standards are pointed out in the annual report of the Federal Trade Commission above referred to, at pages 63 and following. (H. Rept. No. 2287, 74th Cong., 2d sess., on H. R. 8442, p. 7.)

And the Senate report on the Robinson bill said:

The weakness of present section 2 lies principally in the fact that: (1) It places no limit upon differentials permissible on account of differences in quantity; and (2) it permits discriminations to meet competition, and thus tends to substitute the remedies of retaliation for those of law, with destructive consequences to the central object of the bill Liberty to meet competition which can be met only by price cuts at the expense of customers elsewhere, is in its unmasked effect the liberty to destroy competition by selling locally below cost, a weapon progressively the more destructive in the hands of the more powerful, and most deadly to the competitor of limited resources, whatever his merit and efficiency. While the bill as now reported closes these dangerous loopholes, it leaves the fields of competition free and open to the most efficient, and thus in fact protects them the more securely against inundations of mere power and size. (S. Rept. No. 1502, 74th Cong., 2d sess., on S. 3154, p. 4.)

Then commenting on the effect of the good-faith proviso as it related to the chains as buyers, the FTC said:

Discriminatory price concessions given to prevent the loss of a chainstore's business to a competing manufacturer, to prevent it manufacturing its own goods, or to prevent it from discouraging in its stores the sale of a given manufacturer's goods, may be strongly urged by the manufacturer as "made in good faith to meet competition." (S. Rept. No. 293, 72d Cong., 1st sess., p. 90.)

Finally, commenting on the effect of the good-faith proviso as it related to the chains as sellers, the FTS said:

Variation in price between different branches of a chain would seem to be a discrimination, the effect of which may be to produce the forbidden results. It is one thing, however, to reach such a broad conclusion on the results of this practice by chains in general and quite another to prevent by legal means its use by some particular chain. The reason is that the Clayton Act itself specifically permits price discrimination "in the same or different communities made in good faith to meet competition." The Commission has no evidence which would establish that price discrimination by chainstores has not been in good faith to meet competition and there is good ground to conclude that in many cases it has been for that purpose (op. cit., p. 96).

Furthermore, with reference to the new language concerning exemptions for discriminations "which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are sold," the House report said:

This proviso is of great importance, for while it leaves trade and industry free from any restriction or impediment to the adoption and use of more economic processes of manufacture, methods of sale, and modes of delivery, wheresoever they may be employed in streams of production or distribution; it also limits the use of quantity price differentials to the sphere of actual cost differences. Otherwise such differentials would become instruments of favor and privilege and weapons of competitive oppression.

The bill neither requires nor compels the granting of discriminations or differentials of any sort, and the words "or require" are

expressly inserted in both the above subparagraphs to make that clear. It leaves any who wish to do so entirely free to sell to all at the same price regardless of differences in cost, or to grant any differentials not in excess of such differences. It does not require the differential, if granted, to be the arithmetical equivalent of the difference. It is sufficient that it does not exceed it (op. cit. pp. 9 and 10).

And in much the same language the Senate report said:

This proviso is of greatest importance, for while it leaves trade and industry free from any restriction or impediment to the adoption and use of more economic processes, and to the translation of appropriate shares of any savings so effected up and down the stream of distribution to the original producer and to the ultimate consumer, it also strictly limits the use of quantity price differences to that sphere, since beyond it they become instruments of favor and privilege and weapons of competitive oppression (op. cit. p. 5).

INJURY TO INTERSTATE COMMERCE

On the matter of extending the scope of the law to cover injury to intrastate commerce, where the discriminating seller is in interstate commerce, the House report quoted the new phrase in subsection (a) "where either or any of the purchases involved in such discrimination are in commerce" and said that it "is of first importance in extending the protections of this bill against the full evil of price discrimination, whether immediately in interstate or intrastate commerce, wherever it is of such a character as tends directly to burden or affect interstate commerce"—opere citato page 8.

And the Senate report quoted the same phrase of the bill and said:

And this clause is designed to extend its scope to discriminations between interstate and intrastate customers, as well as between those purely interstate (op. cit. p. 4).

Coming now to a fourth major purpose of the changes in section 2, we find a clear record of intent to prohibit discriminations having a substantially injurious effect upon individual competitors. The House report quoted the following language on section 2 (a) of the Patman bill, which is the language of the present statute, except for omission of the word "knowingly," as follows:

Where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or receives the benefit of such discrimination or with customers of either of them (op. cit. p. 8).

Then the House report went on to explain what this language was intended to accomplish as follows:

This provision accomplishes a substantial broadening of a similar clause now contained in section 2 of the Clayton Act. The existing law has in practice been too restrictive in requiring a showing of general injury to competitive conditions in the line of commerce concerned, whereas the more immediately important concern is in injury to the competitor victimized by the discrimination. Only through such injury in fact can the larger, general injury result. Through this broadening of the jurisdiction of the act, a more effective suppression of such injuries is possible and the more effective protection of the public interest at the same time is achieved (op. cit., p. 8).

The Senate report quoted the same language as the House report and explained it as follows:

This clause represents a recommended addition to the bill as referred to your committee. It tends to exclude from the bill otherwise harmless violations of its letter, but accomplishes a substantial broadening of a similar clause now contained in section 2 of the Clayton Act. The latter has in practice been too restrictive, in requiring a showing of general injury to competitive conditions in the line of commerce concerned; whereas the more immediately important concern is in injury to the competitor victimized by the discrimination. Only through such injuries, in fact, can the larger general injury result, and to catch the weed in the seed will keep it from coming to flower (op. cit., p. 4).

BACKGROUND OF SECTION 2 (B)

Coming now to the subsection 2 (b) defense, the background recommendation for a solution of this problem came from the Federal Trade Commission in its final report on the chainstore investigation. The FTC report contained the following statement and recommendation:

A simple solution for the uncertainties and difficulties of enforcement would be to prohibit unfair and unjust discrimination in price and leave it to the enforcement agency, subject to review by the courts, to apply that principle to particular cases and situations. The soundness of and extent to which the present provisos would constitute valid defenses would thus become a judicial and not a legislative matter.

The Commission therefore recommends that section 2 of the Clayton Act be amended to read as follows:

It shall be unlawful for any person engaged in commerce, in any transaction in or affecting such commerce, either directly or indirectly to discriminate unfairly or unjustly in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States. (Final report of the Federal Trade Commission on chainstore investigation, S. Doc. No. 4, Dec. 13, 1934, 74th Cong., 1st sess., p. 96).

The bill introduced in the Senate and reported by the Senate Committee on the Judiciary followed the FTC's recommendation literally in that it contained no reference whatever to "good faith" or to "meeting of competition." The House bill, on the other hand, contained the language of the statute today. The Senate bill was amended on the floor of the House by insertion of the "good faith" clause of the old Clayton Act. The conference committee agreed upon the language of the House bill and the statement of the managers on the part of the House accompanying the conference committee bill referred to the language of the Senate bill as follows:

The Senate bill contained a further proviso—That nothing herein contained shall prevent discrimination in price in the same or different communities made in good faith to meet competition.

This language is found in existing law, and in the opinion of the conferees is one of the obstacles to enforcement of the present Clayton Act. The Senate receded, and the language is stricken. A provision relating to the question of meeting competition, intended to operate only as a rule of evidence in a proceeding before the Federal Trade Commission, is included in subsection (b) * * *. (H. Rept. No. 2951, 74th Cong., 2d sess., on H. R. 8442, pp. 6 and 7.)

Further supplementing the conferee's report, the chairman of the House Conferees [Mr. Utterback] submitted a more detailed report explaining with considerable length and clarity the meaning of each subsection of the Robinson-Patman bill. Since the Supreme Court has looked to this report for the construction of section 2 (b) defense in each of the several cases—Corn Products Refining Co. against FTC, Stanley against FTC; FTC against Cement Institute et al., and Standard Oil, Indiana, against FTC—which have involved this issue, it may be well to consider in full the section of the report dealing with "meeting competition." It is as follows:

In connection with the above rule as to burden of proof, it is also provided that a seller may show that his lower price was made in good faith to meet an equally low price of a competitor, or that his furnishing of services or facilities was made in good faith to meet those furnished by a competitor. It is to be noted, however, that this does not set up the meeting of competition as an absolute bar to a charge of discrimination under the bill. It merely permits it to be shown in evidence. This provision is entirely procedural. It does not determine substantive rights, liabilities, and duties. They are fixed in the other provisions of the bill. It leaves it a question of fact to be determined in each case, whether the competition to be met was such as to justify the discrimination given, as one lying within the limitations laid down by the bill, and whether the way in which the competition was met lies within the latitude allowed by those limitations.

This procedural provision cannot be construed as a carte blanche exemption to violate the bill so long as a competitor can be shown to have violated it first, nor so long as that competition cannot be met without the use of oppressive discriminations in violation of the obvious intent of the bill.

To illustrate: The House committee hearings showed a discrimination of 15 cents a box granted by Colgate-Palmolive Peet Co. on sales of soap to the A. & P. chain. Upon a complaint and hearing before the Federal Trade Commission, this proviso would permit the Colgate Co. to show in rebuttal evidence, if such were the fact, an equally low price made by a local soap manufacturer in Des Moines, Iowa, to A. & P.'s retail outlets in that city; but this would not exonerate it from a discrimination granted to A. & P. everywhere, if otherwise in violation of the bill.

But the committee hearings show a similar discount of 15 cents a case granted by Procter & Gamble to the same chain. If this proviso were construed to permit the showing of a competing offer as an absolute bar to liability for discrimination, then it would nullify the act entirely at the very inception of its enforcement, for in nearly every case mass buyers receive similar discriminations from competing sellers of the same product. One violation of law cannot be permitted to justify another. As in any case of self-defense, while the attack against

which the defense is claimed may be shown in evidence, its competency as a bar depends also upon whether it was a legal or illegal attack. A discrimination in violation of this bill is in practical effect a commercial bribe to lure the business of the favored customer away from the competitor, and if one bribe were permitted to justify another the bill would be futile to achieve its plainly intended purposes. (CONGRESSIONAL RECORD, 74th Cong., 2d sess., vol. 80, pt. 9, p. 9418.)

The conference report on the Robinson-Patman bill was agreed to by both Houses without any objection. It was passed by the Senate by an unanimous vote and was passed by the House by a vote of 290–16.

THE ROBINSON-PATMAN ACT IS A RETURN TO OUR HISTORIC ANTITRUST POLICIES

The Robinson-Patman Act was passed in the decade of the National Industrial Recovery Act, the Miller-Tydings Act, and other such legislation in the business field. Hence the philosophy of the Robinson-Patman Act is sometimes confused in the popular mind with these and other legislative enactments which were designed to impose regulations upon business or to restrict competition. Indeed, confusions of this sort are deliberately cultivated in some quarters. The notion that the Robinson-Patman Act was intended to impose regulations or maintain prices could not be farther from the facts. The act was intended to lay certain ground rules which would make it possible to return business to the regulation of competition, the kind of regulation which theretofore had largely failed.

More than half a century of experience with the growing practice of price discrimination in the business system had left it unmistakable that this practice, whether with good intent or evil, gives big sellers an uneconomic advantage over small sellers, and that it gives big buyers an unearned advantage over small competing buyers. It was equally clear, moreover, that the practical result of the practice is that small firms are either destroyed, or survive under a coercive force which forbids them to lower their prices but compels them to follow the price lead of their large, centralized competitors. Clearly, then, the effect of price discrimination is not a price competition, but a system of high, regimented prices. Furthermore, to continue to permit an undue abuse of bigness would inevitably result in the destruction and drying up of small firms, and a centralization of all business into the hands of a few giant corporations.

The idea of competition involves a whole system of thought, and this system of thought is deeply embedded in our national philosophy. It is closely associated with our historic idea of freedom, which demands that we maintain an open-door policy in economic affairs, so that new firms may always enter and stake their chances of success upon their ability to produce and sell at lower costs than their competitors, or upon the ability to produce and sell better products. This philosophy is also closely associated with a kind of Darwinism in our thinking. We like to think of competition as being a process by which the unfit and the inefficient are continually being weeded out, and the fittest survive. Competition of this kind, we think, spurs the inventiveness of man, resulting in new discoveries and increased efficiencies. Manifestly, however, competition cannot survive under the law of the jungle, wherein the strong perpetually devour the weak. We learned long ago that mere financial size cannot be the test which determines the outcome of the competitive struggle.

The legislative history of the Robinson-Patman Act, if it is clear on anything, is clear on this: It was designed, not to protect particular classes of competitors, but to adopt a rational test of fitness, and place the competitive struggle squarely upon these tests. In brief, the philosophy of the Robinson-Patman Act is to remove size as the determinant of who shall win out in the competitive struggle, and place competition squarely upon the question of who can perform his part in the production and distribution function at the lowest cost, and at the same time, to free the price making from coercive, centralized control, so that any business firm—not just the few top firms—may reduce its prices and take business away from its competitors.

This is another way of saying what is already said in the foregoing excerpts from the legislative history: The Robinson-Patman Act was intended to provide a system of genuine competition, and an equality of opportunity for all.

STATUS OF THE SECTION 2 (B) DEFENSE

In an unanimous opinion written by the late Chief Justice Stone, in *Federal Trade Commission* v. *Staley Co.* (324 U. S. 746, dec. 1945) the Supreme Court gave the fullest discussion of the section 2 (b) defense that had been made by the Court prior to its opinion in the Standard Oil, Indiana, case. The Court relied upon the Staley opinion, or so it said, in interpreting the defense in the Standard opinion.

THE STALEY AND CORN PRODUCTS DECISIONS

The Staley case involved two distinct types of price discriminations. The two types raise different problems under the 2 (b) defense and they were treated separately in parts I and II, respectively, of the Supreme Court's opinion.

Staley's discriminatory practices dealt with in part I of the opinion relate to its use of a basing-point system. As a general rule Staley sold its glucose at delivered prices which were computed as the base price for glucose announced at Chicago, plus the rail freight charges from Chicago to the buyer's destination. Staley's glucose was not manufactured at Chicago nor shipped from that point. The Commission held that this general system of pricing was discriminatory, and violated section 2 (a).

It had been Staley's practice on occasions, however, to make certain deviations from its general price formula, and the FTC held these deviations to be discriminatory in and of themselves. For example, while the majority of Staley's customers paid the formula price, Staley had certain favored customers to whom it sold at the carload price, although the purchases were made in less than carload lots. Similarly, at times when general price increases were made, the favored customers were booked far in advance at the older, lower price, and frequently without the customers' knowledge.

The Staley Co. plead the section 2 (b) defense, claiming that it was simply meeting its competitor's lower prices in good faith in both instances. The Supreme Court rejected Staley's claims to the 2 (b) defense as a justification for both types of discriminations. Here it may be noted that both Staley's general formula of pricing and its deviations from this formula were held to be illegal on the ground that each type of discrimination was assumed to have, in the factual situation of Staley's industry, substantially adverse effects upon competition. According to FTC's complaint and findings the competition affected was that of the buyers of glucose, among whom the discriminations resulted in substantial inequalities.

Thus it would appear hypothetically possible at least, that in other situations of this kind the discriminations involved in the general formula of pricing might not, in the factual situation, create such inequalities among competing buyers as to be found to violate section 2 (a), while deviations from the formula pricing might be found to do so; and conversely, it would seem hypothetically possible that in other factual situations the discriminations involved in the formula pricing might be held to violate section 2 (a) while deviations from the formula might not be so held.

The good-faith issue involved in Staley's general formula of pricing can best be understood by reference to the opinion in *Corn Products Co.* v. *Federal Trade Commission* (324 U. S. 726). The Staley and Corn Products cases were companion cases, decided by the Supreme Court on the same day.

The basing-point system of pricing which both Staley and the Corn Products Co. followed, had been followed by the latter company before Staley came into business. The Corn Products Co. sold at delivered prices. Its delivered prices were computed as its base price for glucose announced at Chicago, plus rail freight charges for shipping from Chicago to the buyer's place of business. The Corn Products Co. had plants manufacturing glucose in both Chicago and Kansas City. Buyers in Kansas City were charged freight from Chicago, although they were supplied from Kansas City.

The Commission found that much of the glucose is sold to candy manufacturers who are in competition with one another in the sale of their candy; that glucose is the principal ingredient in many varieties of low-priced candy which is sold on narrow margins of profit; and that customers for such candy may be diverted from one manufacturer to another by differences in price of a small faction of a cent a pound. The Commission further found that candy manufacturers located at cities other than Chicago were at a substantial disadvantage in competing with candy manufacturers in Chicago, and that competition among the candy man-

ufacturers had been substantially injured. Some of the candy manufacturers at Kansas City, for example, had gone out of business or moved to Chicago. In the Corn Products decision the Court held this pricing system to be in violation of section 2 (a) of the Robinson-Patman Act.

Coming now to the Staley case, the essential facts are these. Staley priced its glucose on the same basing-point system. Staley's plant was located at Decatur, Ill., and the freight cost for shipping from Chicago to Decatur was 18 cents. Staley therefore charged its customers located in Decatur 18 cents more than it charged its customers in Chicago, although it incurred no freight charges in making delivery to these customers. Conversely, Staley charged buyers in Chicago 18 cents less than buyers in Decatur and, in addition, paid 18 cents in freight charges, thus making a discrimination of 36 cents in favor of Chicago as against Decatur, according to the Supreme Court's computation, "or 17 percent of the Chicago price."

To the extent that neither Staley nor the Corn Products Co. deviated from this general system of pricing the two companies quoted identical delivered prices to any particular buyer in the United States.

Staley claimed that its price discriminations were made in good faith to meet the lower price of a competitor, stipulating that this system of pricing was already in effect when it started in business some years earlier, and that it had merely adopted the Corn Products Co.'s pricing system.

The Court rejected Staley's claim in some rather strong language.

While neither the Staley nor the Corn Products cases involved any charge of conspiracy, the decision of the court of appeals in the Staley case took judicial note of the fact that the two companies had, prior to the FTC's complaint been charged with conspiring in violation of the Sherman Act to follow this same basing-point system, and that a final consent decree had been entered in the United States District Court for the Northern District of Indiana—*United States* v. *Corn Derivatives Institute, et al.*, Equity 11634 (1932). Replying to Staley's claim that it had adopted its competitor's basing-point system in good faith to meet the lower prices of a competitor, the Supreme Court said:

> The Commission's conclusion seems inescapable that respondents' discriminations, such as those between purchasers in Chicago and Decatur, were established not to meet equally low Chicago prices of competitors there, but in order to establish elsewhere the artificially high prices whose discriminatory effect permeates respondents entire pricing system (supra, p. 756).
>
> * * * * *
>
> By adopting the price system of their competitors, respondents have succeeded in many instances in establishing an artificially high price and have thus secured the benefit of the high price levels of a competitor whose costs of delivery are greater (supra, p. 756, 757).
>
> * * * * *
>
> But respondents argue that they have sustained their burden of proof, as prescribed by section 2 (b), by showing that they have adopted and followed the basing-point system of their competitors * * *. Thus it is the contention that a seller may justify a basing point delivered price system, which is otherwise outlawed by section 2, because other competitors are in part violating the law by maintaining a like system (supra, p. 753).
>
> * * * * *
>
> This startling conclusion is admissible only upon the assumption that the statute permits a seller to maintain an otherwise unlawful system of discriminatory prices, merely because he had adopted it in its entirety, as a means of securing the benefits of a like unlawful system maintained by his competitors. * * * We think the conclusion is inadmissible, in view of the clear congressional purpose not to sanction by section 2 (b) the excuse that the person charged with a violation of the law was merely adopting a similarly unlawful practice of another (supra, pp. 753, 754).

Here it should be noted that the Staley opinion cites and leans heavily upon the report of the chairman of the House conferees, Mr. Utterback, in presenting the conference report on the Robinson-Patman bill. It thus appears further that insofar as the basing-point problem discussed in part I of the Staley decision is concerned, the Court did not consider that there was any question of attack, lawful or unlawful, by one competitor upon another, nor any question of self-defense, but rather that both competitors were violating the law for their mutual benefit.

The Court in part I said:

> The act thus places emphasis on individual competitive situations, rather than upon a general system of competition (supra, p. 753).

Coming now to part II of the Staley decision, the essential facts are as follows: Staley had stipulated the facts as to its booking practices and stipulated further that the discriminations involved were, in the Court's language:

> Made in response to verbal information received from salesmen, brokers, or intending purchasers, without supporting evidence, to the effect that in each case one or more competitors had granted or offered to grant like discriminations. It is stipulated that respondents, "believing such report to be true, has then granted similar" price discriminations (supra, p. 758).

Then the Court went on to point out:

> The record contains no statements by the persons making these reports and discloses no efforts by respondents to investigate or verify them, and no evidence of respondents' knowledge of their informants' character and reliability. It is admitted that in some instances respondents made sales upon bookings which they suspected had been made without knowledge of the buyers (supra, p. 758).

In view of the above recitation of facts and others of a similar nature, the Court then held that Staley had failed in its burden of showing that its discriminations made in the course of its deviations from its general pricing formula had been made in good faith to meet a competitor's price offers to those buyers. Here the Court said:

> Section 2 (b) does not require the seller to justify price discriminations by showing that in fact they met a competitive price. But it does place on the seller the burden of showing that the price was made in good faith to meet a competitor's. The good faith of the discrimination must be shown in the face of the fact that the seller is aware that his discrimination is unlawful, unless good faith is shown, and in circumstances which are peculiarly favorable to price discrimination abuses. We agree with the Commission that the statute at least requires the seller, who has knowingly discriminated in price, to show the existence of facts which would lead a reasonable and prudent person to believe that the granting of a lower price would in fact meet the equally low price of a competitor (supra, pp. 759, 760).

Taking the two parts of the Staley decision either together or separately, it thus appears clear that this opinion constructed the 2 (b) defense as a matter of self-defense. The Court emphasized that the defense applies to "individual competitive situations." The Court stopped short, however, of ruling on the question whether it was to be self-defense against an unlawful attack or a lawful attack. That question was not raised. The claim to self-defense with reference to the basing point system was rejected on the ground that Staley was emulating the unlawful conduct of its competitor for the purpose of gaining "like benefits." The plea of self-defense with reference to Staley's discriminations in favor of individual customers was rejected on the ground that Staley had been insufficiently diligent in satisfying itself that the lower price offer of a competitor existed.

There is some evidence, however, that the Court had in mind that a justifiable discrimination would involve self-defense against an unlawful price attack. Summarizing the pertinent facts treated in part II of its opinion the Court said, as previously quoted, "the facts as stipulated were only that discriminations were made in response to verbal information without supporting evidence, to the effect that in each case one or more competitors had granted or offered to grant like discriminations." Thus it would seem reasonable to expect that if the Court in the Staley opinion had in mind that justification was to involve self-defense against a nondiscriminatory price attack, rather than against a discriminatory price attack, it would have rejected Staley's plea on the ground that it failed to meet this elemental requirement. The Court did not do so. It accepted Staley's plea, as it understood it, as meeting "like discriminations" and rejected the plea only on the ground that Staley had insufficient evidence to convince a reasonable and prudent person that it had been attacked, either lawfully or unlawfully.

THE CEMENT DECISION

Unlike its complaint in the Staley and Corn Products cases, the FTC's complaint in the Cement case contained a charge which was, in effect, that the sellers had combined and conspired to fix prices, in violation of section 5 of the FTC Act. This was in addition to a charge that the sellers had made price discriminations in violation of section 2 (a) of the Robinson-Patman Act.

With reference to the price-fixing charge, the Commission held that the Cement Institute and its manufacturer members had taken collective action to maintain a multiple basing-point system of pricing, and to do other things which

resulted in any particular buyer receiving identical delivered prices, terms of sale, and so forth, from all sellers. All buyers did not receive the same delivered price, but any particular buyer received the same delivered price from all sellers caring to sell that buyer.

With reference to the charge that the cement companies had discriminated in prices in violation of section 2 (a) of the Robinson-Patman Act, the Commission held that respondents' basing-point system of pricing involved a particular seller collecting phantom freight on sales made to some locations, and in its absorbing freight charges on sales made to other locations. Thus, the varying amounts of phantom freight collected and freight charges absorbed resulted in varying net prices to the seller. The Commission charged that this system of pricing resulted in price discriminations within the definition of section 2 (a) of the Robinson-Patman Act and that the effect of these discriminations was to "substantially lessen competition" in violation of that act. The essence of the "lessening of competition" charged in this instance was not that the discriminations resulted in inequalities among buyers, or that competition among the sellers was injured in the sense that the larger sellers were abusing their economic power to injure or destroy smaller competing sellers, but that the "substantially lessening" referred to the elimination of competition among the sellers. The record shows that at earlier times in the history of this pricing system price discriminations had been made to injure and discipline recalcitrant sellers and to bring others into line with the general industrywide system of pricing, and the Court's opinion makes reference to this earlier history. But the state of affairs which had been reached by the time the Commission's order was issued was that of a general compliance with the system on the part of all members of the institute.

The Supreme Court reviewed this case and in April 1948 rendered a 6 to 1 decision sustaining the Commission's findings and order—*Federal Trade Commission* v. *Cement Institute et al.* (333 U. S. 683), Justices Douglas and Jackson taking no part in the decision, and Mr. Justice Burton dissenting.

With reference to the charge that respondents violated section 5 of the Federal Trade Commission Act, the Court said:

> The core of the charge was that the respondents had restrained and hindered competition in the sale and distribution of cement by means of a combination among themselves made effective through mutual understanding or agreement to employ a multiple basing-point system of pricing. It was alleged that this system resulted in the quotation of identical terms of sale and identical prices for cement by the respondents at any given point in the United States. This system had worked so successfully, it was further charged, that for many years prior to the filing of the complaint, all cement buyers throughout the Nation, with rare exceptions, had been unable to purchase cement for delivery in any given locality from any one of the respondents at a lower price or on more favorable terms than from any of the other respondents (supra, p. 688).

Then in concluding upon this charge, the Court said:

> Thus we have a complaint which charged collective action by respondents designed to maintain a sales technique that restrained competition, detailed findings of collective activities by groups of respondents to achieve that end, then a general finding that respondents maintained the combination, and finally an order prohibiting the continuance of the combination. It seems impossible to conceive that anyone reading these findings in their entirety could doubt that the Commission found that respondents collectively maintained a multiple basing point delivered price system for the purpose of suppressing competition in cement sales. The findings are sufficient. The contention that they are not is without substance (supra, pp. 711–712).

Thereafter the Court's opinion reviews the evidence in the record which lead it to conclude that the evidence was sufficient to support the Commission's finding.

Coming to count 2 of the Commission's complaint, the Court said:

> The Commission found that respondents' combination to use the multiple basing point delivered price system had effected systematic price discrimination in violation of section 2 of the Clayton Act as amended by the Robinson-Patman Act (supra, p. 721).

In light of this proposition the Court considered respondents' claim that their price discriminations had been "made in good faith to meet an equally low price of a competitor," as provided in section 2 (b). Here the Court pointed out that the Commission had held "that the effect of this discrimination was the substantial lessening of competition between respondents"—supra, page 722—and it made no separate consideration of the evidence of the competitive effects apart from the consideration which it had already given this evidence under the conspiracy charge. On the contrary, the Court in this opinion took the position that section 2 (b) provides for the Commission to make out a prima facie case of violation of section 2 (a) merely upon proof that a discrimination in price has been made, and that respondents had failed in their burden of rebutting the prima facie case. Here the Court said:

> Section 2 (b) provides that proof of discrimination in price (selling the same kind of goods cheaper to one purchaser than to another) makes out a prima facie case of violation, but permits the seller to rebut "the prima-facie case thus made by showing that his lower price * * * was made in good faith to meet an equally low price of a competitor" (supra, p. 721, 722).

In this opinion, the Court did however take up respondents' arguments on the meaning of the section 2 (b) defense and declared that these arguments had already been answered in the Corn Products and Staley decisions. Amplifying further, however, on what it understood the Corn Products and Staley decisions to mean, the Court remarked, in part, as indicated below. With reference to the Staley decision, the Court said:

> This was a direct holding that a pricing system involving both phantom freight and freight absorption violates section 2 (a) if under that system prices are computed for products actually shipped from one locality on the fiction that they were shipped from another (supra, p. 724).

And, finally summarizing on the meaning of the 2 (b) defense, the Court said:

> Section 2 (b) permits a single company to sell one customer at a lower price than it sells to another if the price is "made in good faith to meet an equally low price of a competitor." But this does not mean that section 2 (b) permits a seller to use a sales system which constantly results in his getting more money for like goods from some customers than he does from others. We held to the contrary in the Staley case. There we said that the act "speaks only of the seller's 'lower' price and of that only to the extent that it is made 'in good faith' to meet an equally low price of a competitor." The act thus places emphasis on individual competitive situations, rather than upon a general system of competition (opus cit., supra, p. 725).

While the Court did not consider the question whether it was to be a lawful or unlawful attack which could justify the seller in meeting the lower price of a competitor, it does appear that if adopted the proposition that "the act thus places emphasis on individual competitive situations rather than upon a general system of competition" and that section 2 (b) does not permit "a seller to use a sales system which constantly results in his getting more money for like goods from some customers than he does from others."

THE STANDARD OIL (INDIANA) DECISION

In 1950, the Supreme Court in *Standard Oil (Indiana)* v. *Federal Trade Commission* (340 U. S. 231), ruled in a 5-to-3 decision—Mr. Justice Minton not participating—that the section 2 (b) defense, when successfully made out, is a complete justification for a practice of price discrimination and that this defense thus serves as a bar to a cease-and-desist order against such practice. The Court also ruled upon a number of other things, but it may be important to consider first what the issue was and what arguments were made on it.

The charge against Standard was that its practice of selling gasoline to certain buyers in the Detroit area at 1½ cents less than it charged other buyers adversely affected competition among Standard's retail dealers to a degree prohibited by section 2 (a) of the statute. Furthermore, the proceedings before the FTC came to a conclusion with the Commission making a finding that Standard's discrimination in fact have the adverse effect prohibited by the statute. Standard had claimed, among other things, that its discriminations were "made in good faith to meet the lower price of a competitor."

It claimed, moreover, that this defense is a complete defense against the charge of violation of section 2 (a), barring the Commission from issuing a cease-and-desist order. The Commission accepted the evidence which Standard introduced in support of its claim that its discriminations were made in good faith to meet the lower price of a competitor, but the Commission refused to make a finding on the question whether or not Standard's evidence successfully supported this claim. The Commission took the position that at the stage of the proceedings which had then been reached, the question whether Standard had met competitors' prices in good faith was irrelevant—that a cease-and-desist order

should issue in either eventuality. More specifically, the Commission's position was that the 2 (b) defense was to be effective only in "rebutting its prima facie case" made out merely upon a showing that a price discrimination had been made. The Commission reasoned further that since it had already proceeded to the next step in the burden of proof, and shown the adverse effects of the discriminations in question, its cease-and-desist order should be issued whether or not Standard successfully made out the 2 (b) defense. In this position the Commissioner relied upon the language of the statute and statements in the legislative history, as well as statements in the Staley and Cement opinions, to support its contentions that section 2 (b) was intended as a procedural matter, governing the shifting of the burden of proof. For example, the Staley opinion had said:

It will be noted that the defense that the price discriminations were made in order to meet competition, is under the statute a matter of rebutting the Commission's prima facie case (supra, p. 752).

And in the same opinion Mr. Chief Justice Stone had said that the 2 (b) defense: "Is a matter of evidence in each case, raising a question of fact as to whether the competition justified the discrimination"—supra, page 746.

In the Standard Oil, Indiana, opinion, however, the Court held that the 2 (b) defense is not just a matter of rebutting the FTC's prima facie case, but that the defense is a complete justification for the discriminatory practice, irrespective of the effects of the discrimination. Consequently, this case was remanded to the FTC for a finding whether or not Standard's discrimination had been made in good faith to meet the lower price of a competitor.

In addition to the primary issue before the Court in this case, the Court also ruled or expressed opinions upon several other questions. Specifically, the majority opinion ruled, not only upon the question whether the (2) (b) defense is a complete justification, but on the question of how the defense is to be constructed. Further, it made quasi-legislative findings upon a number of economic questions pertaining to the practical effects of price discriminations and the social desirability of these practices.

It will perhaps lead to a clearer understanding of the Court's ruling upon the main question to consider its economic conclusions first. Here the Court not only entertained theoretical arguments about the effects and desirability of discriminatory practices, but during the course of the oral arguments it invited additional speculations in these fields. For example, in November 1950 Mr. William Simon, who argued the case as amicus curiae on the side of Standard told the Court:

We believe that there is never an injury to competition when a seller does no more than to in good faith meet the price at which his competitors are lawfully selling and which they offer to his customers. (See transcript of argument.)

It was perhaps relevant to the Court's ruling that section 2 (b) provides a complete defense of a discriminatory practice, irrespective of the effects of the practice, that the Court was proceeding upon the premise that a discrimination to meet a competitor's price does not in fact injure competition, but on the contrary, discriminations are essential to any competition at all. More precisely, the majority opinion seems clearly to think that discriminations are necessary to vigorous competition and that the Court's decision in limiting discrimination to a meeting of competitor's prices regrettably softens competition. Indeed, it is clear that the majority opinion regards the Robinson-Patman Act as a kind of price control by law calculated to lessen if not stop competition, and that the act expresses a philosophy which is contrary to the Sherman Act. The opinion contains a number of suggestions to these effects. For example, at the conclusion of his opinion, after he had succeeded in rationalizing away most, but not quite all, of the law against price discrimination, Mr. Justice Burton seems to apologize for the incompleteness of his labors. He says:

We need not now reconcile, in its entirety, the economic theory which underlies the Robinson-Patman Act with that of the Sherman and Clayton Acts.

The above remark is footnoted to explain that "it has been suggested that, in theory, the Robinson-Patman Act, as a whole, is inconsistent with the Sherman and Clayton Acts." And the reader is referred to the published writings of several economists and lawyers who have been unsympathetic to the Robinson-Patman Act, including two who have been particularly active in propagandizing against the act, and under circumstances which render their disinterestedness at least suspect.

Then again, earlier in this opinion where it is decided how the 2 (b) defense shall be constructed, there follows a triumphant assertion:

Actual competition, at least in this elemental form, is thus preserved.

There were other informal expressions by the Justices joining in the majority opinion which make their understanding of and predilection for discriminations unmistakable. For example:

Justice JACKSON. Do you think we have statutes of any consistent philosophy of business control?

Mr. SIMON. Well, I must confess that the philosophy of the Sherman Act is diametrically opposed to the philosophy of the Robinson-Patman Act, as the Federal Trade Commission construes it.

Justice JACKSON. We have vacillated and oscillated between the NRA theory, roughly, and the Sherman Antitrust Law theory ever since I can remember, and we are still wobbling.

"Mr. SIMON. This is the NRA theory" (cf. transcript of argument.)

The following is quoted from Mark H. Wooley, Fortune magazine, November 1950, page 184:

In a series of questions Justice Jackson showed the essential conflict between the Robinson-Patman Act and the antitrust laws: "Is it explained how a price reduction is an injury to competition?" "Is it your view that this section of the Robinson-Patman Act is consistent with the antitrust laws or are we trying to enforce two conflicting legislative policies?" "Suppose there were no Robinson-Patman Act. What would your clients (retail gasoline dealers) then do? Would they go to their suppliers and ask for a price cut?" That would help Justice Black and me who want to get our gasoline cheaper. The whole purpose of this is to avert competition from running its course.

There is considerable evidence in the expressions quoted above and in the majority opinion, however, that the Court was confused as between a price discrimination and a price reduction. For example, the key factor in the Court's reconciliation of its ruling with the legislative history of the act is to be found in the following:

It must have been obvious to Congress that any price reduction to any dealer may always affect competition at that dealer's level as well as at the dealer's resale level, whether or not the reduction to the dealer is discriminatory. Likewise, it must have been obvious to Congress that any price reductions initiated by a seller's competitor would, if not met by the seller, affect competition at the beneficiary's level or among the beneficiary's customers just as much as if those reductions had been met by the seller (supra, p. 250).

In other words, the Court missed the whole point of the law. It started out with the premise that in drafting the law Congress was trying to soften competition, but after discovering that there are some obvious loopholes, namely, that Congress did not prohibit nondiscriminatory price reductions, the Court concluded that the law could not successfully stop competition anyway.

The minority opinion in the Standard Oil case refrains, on the whole, from entering into a consideration of whether discrimination is economically desirable or undesirable, and at one point seems to offer a mild rebuke to the majority for doing so. Nevertheless, it, too, pronounces statutory restraints upon discrimination to be a fetter on competition. Here one of the newly popular views of the matter, according to which discrimination has both good and bad competitive effects, is adopted and asserted without qualification. This is the view which holds that discriminatory selling strengthens competition among sellers but weakens competition among buyers. The minority opinion asserts, moreover, that when it passed the Robinson-Patman Act, Congress, too, had recognized the supposedly conflicting effects arising from legal restraints upon discriminatory selling, but that Congress had obviously concluded that the greater advantage would accrue by fostering equal access to supplies by competing merchants. The pertinent passages in full are as follows:

The public policy of the United States fosters the free-enterprise system of unfettered competition. * * * There are, however, statutory exceptions to such unlimited competition. Nondiscriminatory pricing tends to weaken competition in that a seller, while otherwise maintaining his prices, cannot meet his antagonist's price to get a single order or customer. But Congress obviously concluded that the greater advantage would accrue by fostering equal access to supplies by competing merchants or other purchasers in the course of business.

The minority opinion further said:

The need to allow sellers to meet competition in price from other sellers while protecting the competitors of the buyers against the buyers' advantages gained from the price discrimination was a major cause of the enactment of the 1936 Robinson-Patman Act. The Clayton Act has failed to solve the problem.

Thus both the majority and minority views in the Standard Oil decision looked upon statutory restraints on discrimination to be an amelioration or lessening of competition, and the most charitable of these two views hold that, as against a loss of competition among sellers, there is some offsetting or overbalancing advantage to be gained by securing buyers against the destructive effects of discriminatory selling.

Unfortunately counsel who argued the case for the Federal Trade Commission was not prepared to make either practical or theoretical arguments.

Coming now to the Court's construction of the section 2 (b) defense, although the practical question had not been raised, it said that by passage of the Robinson-Patman Act Congress did not seek "either to abolish competition or so radically to curtail it that a seller would have no substantial right of self-defense against a price raid by a competitor"—supra, page 249.

Then more specifically the Court said of the 2 (b) defense:

That still consists of the provision that wherever a lawful lower price of a competitor threatens to deprive a seller of a customer, the seller, to retain that customer, may in good faith meet that lower price—supra, page 242.

Similar statements to the effect that the price to be met must be a lawful price, appear at approximately seven places in this opinion.

How did the Court decide that a violation of the law in self-defense is to consist of meeting a competitor's lawful price? The answer appears in several places. For example:

In the Staley case, supra, most of the Court's opinion is devoted to the consideration of the evidence introduced in support of the seller's defense under section 2 (b). The discussion proceeds upon the assumption, applicable here, that if a competitor's "lower price" is a lawful individual price offered to any of the seller's customers, then the seller is protected, under section 2 (b), in making a counteroffer provided the seller proves that its counteroffer is made to meet in good faith its competitor's equally low price—supra, page 244.

Then in a footnote the Court quotes a statement of two members of the FTC staff filed with the Temporary National Economic Committee in 1941, in part, as follows:

The right of self-defense against competitive price attacks is as vital in a competitive economy as the right of self-defense against personal attack—supra, page 247.

And the Court also said:

There is also a suggestion in the debates, as well as in the remarks of this Court in the Staley case, supra, that a competitor's lower price, which may be met by a seller under the protection of section 2 (b), must be a lawful price (supra, p. 248).

Unfortunately the Court's opinion does not specify where the suggestion is to be found in the debates that the price to be met must be a lawful price, but the remarks impinging upon this question to be found in the Staley decision cited as has been indicated, the report of the chairman of the House conferees, Mr. Utterback.

It thus appears that the basic difficulty, and the nullifying effect, of the Standard Oil of Indiana decision lies not in the fact that the Court held the section 2 (b) defense to be a complete defense, but in the fact that it constructed the defense to mean that a seller is justified in violating the law to meet a lawful attack rather than to meet an unlawful attack. As is to be expected, arguments are being made that since a seller is justified in making a discrimination to meet a competitor's lawful price, he may enjoy the presumption that his competitor's price is lawful, and proceed with immunity. For example, the report accompanying one of the bills which have been introduced "to conform statutory law to the interpretation of section 2 of the Clayton Act, as amended, recently enunciated by the Supreme Court in Standard Oil Company against Federal Trade Commission," states:

Certainly a seller would not be held responsible, under normal conditions, to judge at his peril whether his competitor could justify the lower price that was being met. Competitors do not normally have ready access to one another's books of account. In the ordinary course the seller may safely start with the assumption that the lower price of a competitor which he is meeting is lawful. (Cf. S. Rept. No. 293, 82d Cong., 1st sess., to acompany S. 719, p. 6.)

Had the Court constructed the defense to mean self-defense in the normal sense of the term, with the burden of showing justification upon the defendant pleading this defense, the seller would be justified in his violations only where he could show that he was in dire peril, and where the circumstances were such that he could not prevail upon the policing authorities to make a timely intervention against his competitor's unlawful act. Moreover, there would normally be a reasonable limit on the time during which the seller could continue to meet a competitor's unlawful price without obtaining legal intervention. As the Court did construct the 2 (b) defense, however, it would appear to leave the law with no facility for terminating a discriminatory practice. Indeed, the sellers who make the lower nondiscriminatory prices which the Robinson-Patman Act sought to encourage lay themselves open to a practical penalty for doing so. And the sellers who make nondiscriminatory prices, whether lower or not—as is usually a practical necessity for smaller sellers—provide an unending justification for their competitors to violate the law.

The genesis of the Court's construction of the 2 (b) defense would be incomplete without some consideration of the alternative arguments with which the Court was presented.

The Department of Justice allowed the FTC to assign its own attorney to present its case to the Court. The FTC assigned a recently appointed associate general counsel. He did not argue either that the 2 (b) defense should involve meeting a lawful price or that it should involve meeting an unlawful price. He did not argue either that the defense should pertain to retaining a customer or that it should pertain to acquiring a new customer. He did not dispute counsel for Standard's position on these points. His argument touched upon none of these things; rather, his argument was in essence that a seller's price discriminations may enhance competition at the seller's level while injuring competition at the reseller's level, and that the 2 (b) defense should mean that the FTC would balance the benefits against the injury in individual situations and decide in each case where the greater social good lay. This argument appears to have struck the Court as being dangerously insufficient in provision for due process, for in rejecting the argument it said:

In the absence of more explicit requirements and more specific standards of comparison than we have here, it is difficult to see how an injury to competition at a level below that of the seller can thus be balanced fairly against a justification for meeting the competition at the seller's level. We hesitate to accept section 2 (b) as establishing such a dubious defense (supra, p. 251).

In 1953 the FTC issued a modified finding in the remanded Standard Oil, Indiana, case, declaring that Standard had failed to sustain the burden of proving the 2 (b) defense. Thus, after 2 years of considering the evidence, the FTC reached a conclusion that Standard's price discriminations had not been made "in good faith," stating, in part, as follows:

At all relevant times respondent (Standard Oil of Indiana) knew or had the means of knowing and should have known that the manner in which it priced and sold its gasoline continually created the probability of injury to competition between retail dealers who bought such gasoline at different prices and resold it in competition with one another.

* * * * * * * The Commission does not construe the words "in good faith" in section 2 (b) as permitting that result. (FTC's modified finding issued January 16, 1953.)

Thus the Commission appears to have reverted to a test enunciated in the Cement opinion, which is that the 2 (b) defense does not "permit a seller to use a sales system which constantly results in his getting more money for like goods from some customers than he does from others"—opinion cited—and in doing so the Commission would seem of necessity to have rejected the Court's construction of the defense in the Standard Oil, Indiana, opinion, which construction inherently embraces continual discrimination.

The FTC's modified finding is now pending review of the Circuit Court of Appeals for the Seventh Circuit.

PERSONNEL PROBLEMS OF THE AIR FORCE

The SPEAKER pro tempore. Under previous order of the House, the gentleman from California [Mr. HOLIFIELD] is recognized for 20 minutes.

Mr. HOLIFIELD. Mr. Speaker, in our endeavors to bring about a condition of

lasting peace and security, we have been called upon to create and support powerful American military forces to stand as a bulwark against the diabolical schemes of the Kremlin. Technological military advancements by the Soviets during the past decade have had a profound effect on our efforts. We have been called upon to emphasize a military program adjusted both to this continuing threat to our national survival and to new military doctrinal concepts.

Mr. Speaker, the perimeters of the world have shrunk. No longer it is possible for us to depend complacently upon the luxury of time or the security of distance. A powerful military force in being is this Nation's only insurance against surprise attack.

It is only natural, therefore, that we have come to recognize the need for the rapid buildup toward a powerful defensive and deterrent Air Force. The United States Air Force must be made such an instrument, available to the American people for their common defense and for the advancement of their national interest. It can and should be the most potent assembly of organized military strength in history. It is the principal military means with which the American people can meet the perils of this age of danger.

Our efforts to create such a force have not been directed merely to the accumulation of masses of manpower. As a matter of fact, considerable emphasis has been given to the use of minimum manpower through the effective and maximum use of American scientific genius.

Nevertheless, there has been a tendency in all of our talk of military budgets to disregard the one principal element of a qualitative military force; the human element. The most effective weapons that science can produce are just so many nuts and bolts if we do not have the finest trained manpower to operate them.

Recently, I had the extreme pleasure of visiting both the headquarters, Strategic Air Command, and the headquarters, Continental Air Defense Command. I am hard put to describe the dedicated spirit of the many individuals that I met at both installations. Their spirit is magnificent, despite the many almost insurmountable problems that crop up daily in these two great commands.

Mr. Speaker, my talks with both Gen. Curtis LeMay at Strategic Air Command and Gen. Frederick H. Smith, Jr., vice commander, Air Defense Command, left me quite disturbed.

Of the many problems we discussed, the one that was paramount was that of personnel. The retention of personnel in these two organizations that provide us with the main deterrent against the Soviet Union is probably their most significant problem.

These two great military leaders are concerned about the situation. Continued loss of experienced personnel has had a most unfavorable impact on the combat effectiveness of their units. But what is even worse is that neither can predict an appreciable change in the present trend.

This problem involves more than just a matter of pay. It involves such issues as good and adequate housing, proper family medical care and survivors benefits. It involves the acceptance of the military man into the community family and an awareness by the community of the problems that are inherent only in the military.

Above all, it involves the regeneration of a respect for an honored vocation and the elimination of the too frequent concept of the second-class citizen.

There is all too often a willingness to chip away at the benefits that have been extended to military personnel.

Mr. Speaker, two points stood out in my discussions at SAC and ADC covering the personnel problem. First, the comparison of military pay rates versus civilian for flying and maintenance personnel. Second, the requirements placed upon human beings to provide a constant state of readiness within ADC.

Upon departing SAC and ADC headquarters, I asked both General LeMay and General Smith for a report outlining their major personnel problem areas. I have received them. I would like to quote portions from these reports. First is the SAC statement regarding pay differentials:

As a matter of information, we made a comparison of a SAC B–47 air division with General Motors and United Air Lines. For every $10,000 that General Motors has in asset value, they put the equivalent of $6,000 into payroll, or 60 percent of the asset value. For every $10,000 that United Airlines has in asset value, they put the equivalent of $5,000 or 50 percent into payroll. For every $10,000 that a SAC B–47 Air Division has in asset value, they put the equivalent of $735 or 7.3 percent into payroll.

If you took the total asset value of General Motors and divided it by the total number of General Motors employees, the asset value would be $11,000 per employee; if you did the same thing for United Airlines, the asset value would be $10,500 per employee. If you did the same for a B–47 Air Division, the asset value would be $55,000 per employee.

As to the Air Defense problem, this is what General Smith has to say:

The nature of the air defense mission dictates a constant state of readiness 24 hours a day on a 7 day per week basis. Geographically, it requires that our units be spread over the whole of the United States, with their location determined on the basis of military necessity, technical requirements, and defense capability rather than with regard to favorable climatic and living conditions. The net result of these two facts is that by and large our people are assigned to shift duty in units situated considerable distances from large Air Force installations and also from civilian communities where normal services and conveniences can be made available. For instance, 85 percent of our aircraft control and warning radar units are located from a minimum of 20 miles to a maximum of 485 miles from their parent organization. To a lesser degree they are isolated from even the most rural communities in the more thinly populated areas of the country. The people who man these organizations face much the same situation here as they do at isolated overseas areas. It is upon these people that the problems of housing, medical care, high rents, and the like have particular impact.

Mr. Speaker, both of these are exceptionally fine statements that clearly delineate the personnel problem that the entire Air Force is faced with. With the permission of my colleagues, I should like to insert in the RECORD the complete reports from which I have extracted these statements and suggest they be read by all:

PAY DIFFERENTIAL, AIR FORCE AND CIVILIAN ENTERPRISE

1. From a study of the agreements between an established airline and its employees an interesting comparison of rates of pay between the Air Force and the airline can be made.

2. The comparison is made between the exact jobs in each instance and with approximately the same length of service.

(a) An airline DC–7 pilot (captain on domestic flight) and an Air Force Captain flying a B–47, B–36, or B–52, both with over 8 years' service, will be compared. The airline pilot will receive for an 80-hour flying month (normal) $1,448.00. The Air Force pilot will receive $756.68.

(b) An airline captain on international flights, flying 82 hours, draws approximately $18,480.00 per year. He can be compared to one of our Wing Commanders with 20 years service who draws $13,767 per year and has 50 B–47's under his command.

(c) An airline flight dispatcher with 10 years service will draw a healthy $745 per month, while the Air Force Master Sergeant with the same service and the same duty will earn $375.40.

(d) An airline panel engineer with 2 years experience will receive $545 per month. An Air Force Airman First Class on a C–124 receives $194, which includes allowance equivalents. For the purpose of this comparison, both are unmarried.

(e) The Air Force Master Sergeant serving as a Line Chief will earn $375.40 per month, with an additional $55 per month as flying pay. The Line Chief will not receive flying pay each month, but possibly every other month. The airline lead mechanic will earn a basic wage of $97.20 for a 40-hour week. This figure does not include shift differential, overtime or test flight pay. If he were to work 8 hours overtime and have 8 hours of test flights the airline lead mechanic will draw over $150 per week, or $600 per month.

3. A comparison between mechanics in our combat wings and mechanics working for an airplane company is as follows:

(a) The skilled aircraft mechanic (bomb-navigation systems mechanic, aircraft engine mechanic or radar mechanic) in a B–47, B–36 or B–52 Wing is paid from $205 to $407 per month with the average in SAC being $243 a month due to the grades of airmen assigned. The pay listed above includes pay and allowances, or its equivalent and is the range for airmen second class (single) with over 2 years service up to and including a Master Sergeant (married with over 2 dependents) and over 12 years' service. The pay for these same specialties by Boeing Airplane Company ranges from $318 to $450 monthly, not including any overtime compensations. The fringe benefits for the military individual and the civilian employee are approximately equal in value.

(b) Some of our airmen technicians are qualified upon completing a 4-year enlistment in the Air Force to secure jobs as Contractor-Technicians in civilian industry, receiving pay that will normally range from $500 to over $800 per month, depending upon their seniority. In exceptional cases Contractor-Technicians can earn up to $1,100 per month.

4. As a matter of information, we made a comparison of a SAC B–47 Air Division with General Motors and United Air Lines. For every $10,000 that General Motors has in asset value, they put the equivalent of $6,000 into payroll, or 60 percent of the asset value. For every $10,000 that United Air

Lines has in asset value, they put the equivalent of $5,000 or 50 percent into payroll. For every $10,000 that a SAC B–47 Air Division has in asset value, they put the equivalent of $735 or 7.3 percent into payroll.

If you took the total asset value of General Motors and divided it by the total number of General Motors employees, the asset value would be $11,000 per employee; if you did the same thing for United Air Lines, the asset value would be $10,500 per employee. If you did the same for a B–47 Air Division, the asset value would be $55,000 per employee.

We point this out to show the cost of the equipment and property in a B–47 Air Division for which our people are responsible.

5. The present cost of a B–47, B–36, and B–52 is as follows:

(a) B–52—$10,402,765
(b) B–36—$4,138,125
(c) B–47—$2,449,456.

NOTE.—All pay for Air Force personnel listed includes basic pay and allowances or the allowance equivalent for single airmen who are furnished Government quarters and subsistence.

HEADQUARTERS,
AIR DEFENSE COMMAND,
ENT AIR FORCE BASE,
Colorado Springs, Colo., February 15, 1956.

Hon. CHET HOLIFIELD,
Chairman, Military Subcommittee,
House Government Operations Committe, House of Representatives,
Washington, D. C.

DEAR MR. HOLIFIELD: During your recent visit here with the other members of your committee, you asked me to write you on the Air Defense Command situation with regard to the retention of our military personnel.

The retention of our trained people is probably the most significant problem which faces this command today. We are greatly concerned about the situation because of the impact it has on our effectiveness and also because we cannot at this time predict any appreciable change in the present trend. The Air Defense Command is not unique in this respect when compared with other commands in the Air Force but it does have certain characteristics which I consider worthy to bring again to your attention.

The nature of the air defense mission dictates a constant state of readiness 24 hours a day on a 7 day per week basis. Geographically it requires that our units be spread over the whole of the United States, with their location determined on the basis of military necessity, technical requirements and defense capability rather than with regard to favorable climatic and living conditions. The net result of these two facts is that by and large our people are assigned to shift duty in units situated considerable distances from large Air Force installations and also from civilian communities where normal services and conveniences can be made available. For instance, 85 percent of our Aircraft Control and Warning Radar Units are located from a minimum of 20 miles to a maximum of 485 miles from their parent organization. To a lesser degree they are isolated from even the most rural communities in the more thinly populated areas of the country. The people who man these organizations face much the same situation here as they do at isolated overseas areas. It is upon these people that the problems of housing, medical care, high rents and the like have particular impact.

The technical requirements of the mission assigned this command have a distinct bearing on the problem in two main categories. First, the extremely complicated equipment we must use requires us to train people for a considerable part of their service contract in the fields which make them a natural source for utilization in civilian industries. Secondly, use of this equipment to maximum capability requires such undesirable practices from a personnel standpoint as the positioning of radar units on mountain tops. For operational reasons, it has been necessary to restrict defense coverage of the northern, cold-weather areas to specific type of fighter units. Until recently therefore we find a situation whereby certain of our combat teams and their support personnel were limited to service in the northern area of this country and at far-reaching Air Defense complexes in Alaska, Canada, Newfoundland, and Iceland.

The above generalities have a cumulative and negative effect on the career intentions of our people and I think specific examples of this situation are appropriate.

(a) The fire control systems mechanic is an airman who maintains electronic components of the armament systems in our fighter aircraft. We are authorized over 2,000 of these men and have a reenlistment rate of only 20 percent in this category. We have now and anticipate for some time a manning of only 12 percent in the technician level of skill in this specialty. The radar repair mechanic on our aircraft control and warning systems is authorized this command in numbers of approximately 2,000; we have a reenlistment rate of only 17 percent and in the technician category we have only 26 percent manning.

(b) The officer picture is illustrated by our situation in fighter pilots and radar controllers. These are the men who make up the air and ground components of our operational team. We are currently short fighter pilots and of those now on hand, 661 become eligible for separation during the calendar year 1956. Based on our past experience only 152 of this number, or 23 percent, will extend their tours of active duty. In the controller category, the man who directs the air battle from the ground by means of radar, we presently have a critical shortage. Furthermore, of the controllers now assigned to this command, over 400 become eligible for separation during 1956 and of this number, only 10 percent are expected to extend their active duty tours.

From a military standpoint the loss of our skilled people described above constitutes a tremendous handicap. Although we receive replacements for those people who leave the service, we are constantly faced with the problem of a lack of skill and experience. For instance, 70 percent of our airmen are now in their first enlistment. The task of training these airmen to effectively use and maintain the highly technical machines and equipment which we must have is tremendous. Many of these men spend as much as 2 years of a 4-year enlistment in a training capacity. The average cost of training an airman in the Air Force is some $15,000 but in the categories in which we are primarily concerned, the training cost may be as high as $75,000.

I can assure you that in this command we are taking every internal action we can devise to increase the attractiveness of the service career and to retain our people. The simple fact remains that our people do not find the monetary remuneration or the other tangible benefits which are apparently available in other fields of endeavor. We are keenly aware of pending legislation as proposed by the Department of Defense to enhance service career benefits and to increase the attractiveness of the service career. We are convinced that only by providing our people with the pay, housing, medical care, survivor benefits and the like will we be able to compete with the present civilian economy in retaining the men necessary for adequate defense of this country.

Sincerely,

FREDERIC H. SMITH, Jr.,
Major General, United States
Air Force, Vice Commander.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GRANT (at the request of Mr. ANDREWS), for Tuesday, March 13, 1956, on account of official business.

Mr. H. CARL ANDERSEN (at the request of Mr. AUGUST H. ANDRESEN), indefinitely, on account of death in the family.

Mr. SEELY-BROWN (at the request of Mr. SADLAK), on account of official business at Hartford, Conn.

Mr. HARRIS (at the request of Mr. HAYS of Arkansas), for an indefinite period, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House following the legislative program and any special orders heretofore entered were granted to:

Mr. LESINSKI, for 10 minutes, today.

Mr. MEADER, for 30 minutes, today.

Mr. O'BRIEN of New York, for 30 minutes on Monday next.

Mr. HOLIFIELD, for 20 minutes, today, and to revise and extend his remarks and include extraneous matter.

Mr. KNOX, for 45 minutes today and to revise and extend his remarks and include certain newspaper articles and other extraneous matter.

Mr. KEATING, for 30 minutes on Thursday next and to revise and extend his remarks and include certain extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the RECORD, or to revise and extend remarks, was granted to:

Mrs. SULLIVAN and to include testimony she gave before the Senate Finance Committee.

Mr. SELDEN and to include extraneous matter.

Mr. DAGUE.

Mr. MCCORMACK.

Mr. JACKSON.

Mr. YOUNG.

Mr. WILLIAMS of New Jersey (at the request of Mr. BURLESON) and to include extraneous matter.

Mr. MATTHEWS.

Mr. PHILBIN in three instances.

Mr. YATES in four instances and to include copies of newsletters he sent to his constitutents.

Mr. WILLIS (at the request of Mr. METCALF).

Mr. MULTER in 3 instances and to include extraneous matter in one, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $400.

Mr. RODINO in two instances and to include extraneous matter.

Mr. MURRAY of Illinois.

Mr. DINGELL in two instances and to include extraneous matter.

Mr. JOHNSON of California.

Mr. VAN ZANDT.

Mr. WAINWRIGHT and to include extraneous material.

Mr. BENTLEY (at the request of Mr. WAINWRIGHT) and to include extraneous material.

Mr. AVERY

Mr. LATHAM (at the request of Mr.

HALLECK) and to include extraneous matter.

Mr. KEATING in three instances and to include extraneous matter.

Mr. FLYNT and include a statement.

Mr. PELLY (at the request of Mr. YOUNGER).

BILLS PRESENTED TO THE PRESIDENT

Mr. BURLESON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On March 7, 1956:

H. R. 7588. An act granting the benefits of section 301 (a) (7) of the Immigration and Nationality Act to certain children of United States citizens.

On March 12, 1956:

H. R. 2552. An act to authorize the modification of the existing project for the Great Lakes connecting channels above Lake Erie; and

H. R. 7201. An act relating to the taxation of income of insurance companies.

ADJOURNMENT

Mrs. BLITCH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 15 minutes p. m.), under its previous order, the House adjourned until Thursday, March 15, 1956, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1630. A letter from the Assistant Secretary of the Interior, transmitting a report certifying that an adequate soil survey and land classification has been made of the lands to be served by the Michaud Flats project under the change in development plan, and that the lands to be irrigated are susceptible to the production of agricultural crops by means of either gravity or sprinkler irrigation, pursuant to Public Law 172, 83d Congress; to the Committee on Appropriations.

1631. A letter from the Director of Research and Development, Department of the Army, transmitting a report on Department of the Army research and development contracts for the period from July 1 to December 31, 1955, pursuant to section 4 of Public Law 557, 82d Congress; to the Committee on Armed Services.

1632. A letter from the Administrative Assistant, Secretary of the Interior, transmitting a report covering all tort claims paid by this Department in the fiscal year 1955, pursuant to the Federal Tort Claims Act (28 U. S. C., sec. 2673); to the Committee on the Judiciary.

1633. A letter from the Acting Secretary of State, transmitting a draft of proposed legislation entitled "A bill to give effect to the Convention on Great Lakes Fisheries signed at Washington September 10, 1954, and for other purposes"; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Virginia: Committee on Rules. House Resolution 400. Resolution to authorize a study leading to the establishment of a research and development program for the coal industry; with amendment (Rept. No. 1872), Referred to the House Calendar.

Mr. McMILLAN: Committee on the District of Columbia. H. R. 9770. A bill to provide revenue for the District of Columbia, and for other purposes; with amendment (Rept. No. 1873), Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON of Illinois: Committee on Government Operations. S. 2364. An act to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes; without amendment (Rept. No. 1874), Referred to the Committee of the Whole House on the State of the Union.

Mr. BENTLEY: Committee on Foreign Affairs: House Resolution 370. Resolution to continue the policy of the United States concerning reunification of certain peoples, the admission of Japan into the United Nations, and regarding Communist enslavement; with amendment (Rept. No. 1877). Referred to the House Calendar.

Mr. BONNER: Committee on Merchant Marine and Fisheries. Interim Report of the Committee on Merchant Marine and Fisheries on abandonment of Panama Railroad, pursuant to House Resolution 118 (84th Cong.); without amendment (Rept. No. 1878). Referred to the Committee of the Whole House on the State of the Union.

Mr. SIMPSON of Illinois: Committee on the District of Columbia. H. R. 8493. A bill to exempt from taxation certain property of the General Federation of Women's Clubs, Inc., in the District of Columbia; without amendment (Rept. No. 1879). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FEIGHAN: Committee on the Judiciary. House Joint Resolution 554. Joint resolution for the relief of certain aliens; with amendment (Rept. No. 1875). Referred to the Committee of the Whole House.

Mr. FEIGHAN: Committee on the Judiciary. House Joint Resolution 566. Joint resolution to waive certain provisions of section 212 (a) of the Immigration and Nationality Act in behalf of certain aliens; with amendment (Rept. No. 1876). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BLITCH:

H. R. 9896. A bill to provide supplementary benefits for recipients of public assistance who are in need through the issuance of certificates to be used in the acquisition of surplus agricultural food and fiber products; to the Committee on Ways and Means.

By Mr. BRAY:

H. R. 9897. A bill to amend and clarify section 9 (d) of the Universal Military Training and Service Act to confirm jurisdiction in the Federal courts to enforce section 9 (g) (3); to the Committee on Armed Services.

By Mr. BROYHILL:

H. R. 9898. A bill to provide particular designations for the highway bridges over the Potomac River at 14th Street in the District of Columbia; to the Committee on the District of Columbia.

H. R. 9899. A bill to provide particular designations for the highway bridges over the Potomac River at 14th Street in the District of Columbia; to the Committee on the District of Columbia.

By Mr. ALBERT:

H. R. 9900. A bill to amend title I of the Social Security Act to increase the amounts payable thereunder by the Federal Government to States having approved plans for old-age assistance; to the Committee on Ways and Means.

By Mr. BYRD:

H. R. 9901. A bill to increase from $600 to $1,000 the income-tax exemption allowed a taxpayer for a dependent, and $1,800 for a dependent child (until said child reaches 21 years of age) while attending any business school, college, or university; to the Committee on Ways and Means.

H. R. 9902. A bill to prohibit the serving of alcoholic beverages to passengers on aircraft in flight; to the Committee on Interstate and Foreign Commerce.

By Mr. COOLEY:

H. R. 9903. A bill to amend the Internal Revenue Code of 1954 to provide that the benefits of section 1231 shall be available with respect to livestock held for any purpose by taxpayer for 6 months or more; to the Committee on Ways and Means.

By Mr. EDMONDSON:

H. R. 9904. A bill to provide vocational training for adult Indians; to the Committee on Interior and Insular Affairs.

By Mr. FASCELL:

H. R. 9905. A bill to provide for continuance of life-insurance coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, in the case of employees receiving benefits under the Federal Employees' Compensation Act; to the Committee on Post Office and Civil Service.

By Mrs. GRIFFITHS:

H. R. 9906. A bill to amend the Labor Management Relations Act, 1947, and for other purposes; to the Committee on Education and Labor.

H. R. 9907. A bill to amend the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

By Mr. HUDDLESTON:

H. R. 9908. A bill to amend the Railroad Retirement Act of 1937 to provide increases in benefits, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JONAS:

H. R. 9909. A bill to encourage the discovery, development, and production of mica in the United States, its Territories, and possessions, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. KEE:

H. R. 9910. A bill to establish an educational assistance program for children of servicemen who died as a result of a disability incurred in line of duty during World War II or the Korean service period in combat or from an instrumentality of war; to the Committee on Veterans' Affairs.

By Mr. LESINSKI:

H. R. 9911. A bill to provide for the procurement by the Government of insurance against risk to civilian personnel of liability for personal injury or death, or for property damage, arising from the operation of motor vehicles in the performance of official Government duties, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McCARTHY:

H. R. 9912. A bill to exempt shipments of certain livestock, fish and agricultural commodities from the tax on the transportation

of property; to the Committee on Ways and Means.

By Mr. McDONOUGH:

H. R. 9913. A bill to amend the Internal Revenue Code of 1954 to exempt from tax amounts paid for admission to certain rodeos; to the Committee on Ways and Means.

By Mr. MORRISON:

H. R. 9914. A bill to amend the Railroad Retirement Act of 1937 to provide increases in benefits, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PATMAN:

H. R. 9915. A bill relating to the tax treatment of chain stores operated at a loss; to the Committee on Ways and Means.

By Mrs. PFOST:

H. R. 9916. A bill to permit the free marketing of newly mined gold; to the Committee on Banking and Currency.

H. R. 9917. A bill to create a United States Department of Mineral Resources and to prescribe the functions thereof; to the Committee on Government Operations.

H. R. 9918. A bill to authorize the Secretary of the Interior to negotiate and execute a contract with the Riverside Irrigation District, Idaho, relating to the rehabilitation of the district's works, and other matters; to the Committee on Interior and Insular Affairs.

By Mr. PHILBIN:

H. R. 9919. A bill to provide insurance against flood damage, and for other purposes; to the Committee on Banking and Currency.

By Mr. PRICE:

H. R. 9920. A bill to provide for the appointment of a Chief of Chaplains of the United States Air Force; to the Committee on Armed Services.

By Mr. RODINO:

H. R. 9921. A bill to assist in the provision of housing for elderly families and persons; to the Committee on Banking and Currency.

By Mr. SHUFORD:

H. R. 9922. A bill to provide that certain veterans suffering from active pulmonary tuberculosis shall be deemed to be permanently and totally disabled for pension purposes while they are hospitalized; to the Committee on Veterans' Affairs.

By Mr. TEAGUE of California:

H. R. 9923. A bill relating to the transfer of Veterans' Administration hospitals; to the Committee on Veterans' Affairs.

By Mr. UTT:

H. R. 9924. A bill to advance officers on the retired list of the Army to the highest officer grade for which they satisfactorily performed the duties in time of war; to the Committee on Armed Services.

By Mr. WRIGHT:

H. R. 9925. A bill to provide for the soundproofing of two elementary-school buildings of the Rosen Heights Independent School District; to the Committee on Public Works.

By Mr. YOUNG:

H. R. 9926. A bill to amend title III of the Servicemen's Readjustment Act of 1944, as amended, and for other purposes; to the Committee on Veterans' Affairs.

H. R. 9927. A bill to amend title III of the Servicemen's Readjustment Act to remove certain impediments to the processing of applications for Veterans' Administration direct loans, and for other purposes; to the Committee on Veterans' Affairs.

H. R. 9928. A bill to authorize the coinage of standard silver dollars in commemoration of the Nevada Silver Centenary and the 100th anniversiary of the discovery of the Comstock Lode at Virginia City, Nev.; to the Committee on Banking and Currency.

H. R. 9929. A bill to establish an educational assistance program for children of servicemen who died as a result of a disability incurred in line of duty during World War II or the Korean service period in combat or from an instrumentality of war; to the Committee on Veterans' Affairs.

H. R. 9930. A bill to provide for the maintenance of essential production of tungsten ores and concentrates in the United States, its Territories and possessions, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. PFOST:

H. J. Res. 578. Joint resolution to establish a joint committee to investigate the gold mining industry; to the Committee on Rules.

By Mr. SCOTT:

H. J. Res. 579. Joint resolution to establish a joint congressional committee to be known as the Joint Committee on United States International Exchange of Persons Programs; to the Committee on Rules.

By Mr. POAGE:

H. Res. 426. Resolution providing for the printing of certain proceedings in the House Committee on Agriculture; to the Committee on House Administration.

By Mr. WILLIAMS of New Jersey:

H. Res. 427. Resolution expressing the sense of the House of Representatives that the United States take all possible and appropriate measures through negotiation to obtain maximum jurisdiction over members of the Armed Forces of the United States with respect to offenses committed against the laws of foreign nations in which United States Forces are stationed; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Virginia, memorializing the President and the Congress of the United States to enact a Uniform Reciprocal Enforcement of Support Act for the District of Columbia; to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY:

H. R. 9931. A bill to authorize the President to award posthumously to George Fox, Alexander Goode, Clark Poling, and John P. Washington Congressional Medals of Honor; to the Committee on Armed Services.

By Mr. BALDWIN:

H. R. 9932. A bill for the relief of Francesco Romano; to the Committee on the Judiciary.

By Mr. BRAY:

H. R. 9933. A bill for the relief of Mrs. Jerry A. Hackler; to the Committee on the Judiciary.

By Mr. BYRNES of Wisconsin:

H. R. 9934. A bill for the relief of Mrs. Hilkka Kaustinen; to the Committee on the Judiciary.

By Mr. COLE:

H. R. 9935. A bill for the relief of Mrs. Erika Katharina Fasser Kresge; to the Committee on the Judiciary.

By Mr. CURTIS of Massachusetts:

H. R. 9936. A bill for the relief of Miss Mavis Louise Rhodes; to the Committee on the Judiciary.

By Mr. HAYS of Ohio:

H. R. 9937. A bill for the relief of Donata Di Girolamo; to the Committee on the Judiciary.

By Mr. HILL:

H. R. 9938. A bill for the relief of Hsin-Kuan Liu and Esther T. C. Liu; to the Committee on the Judiciary.

By Mr. McDONOUGH:

H. R. 9939. A bill for the relief of Steven Slota; to the Committee on the Judiciary.

H. R. 9940. A bill for the relief of Mrs. Maria Vadasz; to the Committee on the Judiciary.

By Mr. PATTERSON:

H. R. 9941. A bill for the relief of Mrs. Theresa K. Maschl Wellersdick; to the Committee on the Judiciary.

By Mr. PELLY:

H. R. 9942. A bill for the relief of Mr. and Mrs. Po-Ling Liu and minor son, George Liu; to the Committee on the Judiciary.

H. R. 9943. A bill for the relief of Chih-Yee Wu; to the Committee on the Judiciary.

By Mr. RAY:

H. R. 9944. A bill for the relief of Hjalmar Johansen; to the Committee on the Judiciary.

By Mr. RUTHERFORD:

H. R. 9945. A bill for the relief of Magallano Tiong; to the Committee on the Judiciary.

By Mr. SCOTT:

H. R. 9946. A bill to provide for the advancement of Capt. Edward J. Steichen, United States Naval Reserve (retired), to the grade of rear admiral on the Naval Reserve retired list; to the Committee on Armed Services.

By Mr. SMITH of Virginia:

H. R. 9947. A bill for the relief of the estate of William Edward Wine; to the Committee on the Judiciary.

By Mr. UTT:

H. R. 9948. A bill for the relief of Josephine Shelby; to the Committee on the Judiciary.

By Mr. WALTER:

H. J. Res. 580. Joint resolution for the relief of certain aliens; to the Committee on the Judiciary.

H. J. Res. 581. Joint resolution to waive certain subsections of section 212 (a) of the Immigration and Nationality Act in behalf of certain aliens; to the Committee on the Judiciary.

H. Con. Res. 221. Concurrent resolution favoring the granting of the status of permanent residence to certain aliens; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

645. By Mr. BRAY: Petition of 18 persons of Greene County, Ind., in support of H. R. 4627, a bill to prohibit the transportation of alcoholic beverage advertising in interstate commerce; to the Committee on Interstate and Foreign Commerce.

646. Also, petition of 21 persons of Monroe County, Ind., in support of H. R. 4627, a bill to prohibit the transportation of alcoholic beverage advertising in interstate commerce; to the Committee on Interstate and Foreign Commerce.

647. Also, petition of 145 persons of Monroe County, Ind., in support of H. R. 4627, a bill to prohibit the transportation of alcoholic beverage advertising in interstate commerce; to the Committee on Interstate and Foreign Commerce.

648. Also, petition of 17 persons of Monroe County, Ind., in support of H. R. 4627, a bill to prohibit the transportation of alcoholic beverage advertising in interstate commerce; to the Committee on Interstate and Foreign Commerce.

649. Also, petition of 49 members of Frank Courtney Post No. 22, the American Legion, Linton, Ind., in support of H. R. 7886, a bill to increase veterans' pensions when given for nonservice connected disabilities; to the Committee on Veterans' Affairs.

650. By Mr. BUSH: Petition of Sid R. Stadler and other veterans of Columbia County, Pa., urging the immediate enactment of a separate and liberal pension program for veterans of World War I and their widows and orphans; to the Committee on Veterans' Affairs.

651. Also, petition of William R. Flood and other veterans of Lycoming County, Pa., urg-

ing the immediate enactment of a separate and liberal pension program for veterans of World War I and their widows and orphans; to the Committee on Veterans' Affairs.

652. By Mr. FOUNTAIN: Petition of Jesse M. Seaver, and 201 other citizens of Halifax County, N. C., protesting alcoholic beverage advertising on radio and television; to the Committee on Interstate and Foreign Commerce.

653. Also, petition of Rev. C. S. Grogan, and 75 other citizens, of Roanoke Rapids, N. C., in support of bills S. 923 and companion bill H. R. 4627; to the Committee on Interstate and Foreign Commerce.

654. Also, petition of Rev. Ben F. Musser, and 25 other citizens, of Seaboard, N. C., protesting the advertising of alcoholic beverages on radio and television; to the Committee on Interstate and Foreign Commerce.

655. Also, petition of Rev. Paul D. Early, and 39 other citizens, urging the support of S. 923 and companion bill H. R. 4627; to the Committee on Interstate and Foreign Commerce.

656. By Mr. HOEVEN: Petition urging immediate enactment of a separate and liberal pension program for veterans of World War I and their widows and orphans; to the Committee on Veterans' Affairs.

657. By Mr. SHORT: Petition of Mrs. R. F. Hamilton and other citizens of Polk County, Mo., urging the passage of legislation to prohibit alcoholic beverage advertising on radio and television; to the Committee on Interstate and Foreign Commerce.

658. Also, petition of Joe Rountree and other citizens of Ozark County, Mo., urging support of bills, S. 923 and H. R. 4627, legislation prohibiting alcoholic beverage advertising on radio and television; to the Committee on Interstate and Foreign Commerce.

659. Also, petition of S. H. Johnson and other citizens of Jasper County, Mo., urging immediate enactment of a separate and liberal pension program for veterans of World War I and their widows and orphans; to the Committee on Veterans' Affairs.

660. Also, petition of Joe Taylor and other citizens of Neosho, Mo., urging immediate enactment of a separate and liberal pension program for veterans of World War I and their widows and orphans; to the Committee on Veterans' Affairs.

661. Also, petition of Amos A. Wynkoop and other citizens of Greene County, Mo., urging immediate enactment of a separate and liberal pension program for veterans of World War I and their widows and orphans; to the Committee on Veterans' Affairs.

662. Also, petition of Oscar T. Williamson and other citizens of Lawrence County, Mo., urging immediate enactment of a separate and liberal program for veterans of World War I and their widows and orphans; to the Committee on Veterans' Affairs.

663. By the SPEAKER: Petition of the secretary, Lower Tule River Irrigation District, Porterville, Calif., petitioning consideration of their resolution with reference to recommending that funds be allocated for the immediate commencement of construction of Success Dam on the Tule River and Terminus Dam on the Kaweah River; to the Committee on Appropriations.

664. Also, petition of the secretary, Porter Slough Ditch Co., Porterville, Calif., petitioning consideration of their resolution with reference to urging the immediate appriation of the initial funds necessary for the commencement of construction of Success Dam, and to make such additional appropriations necessary for the completion thereof; to the Committee on Appropriations.

665. Also, petition of the president, BMT Division, Holy Name Society, Brooklyn, N. Y. petitioning consideration of their resolution with reference to expressing their support of the principles of the proposed Bricker amendment to our Federal Constitution; to the Committee on the Judiciary.

666. Also, petition of the city clerk, Port Arthur, Tex., petitioning consideration of their resolution with reference to urging support of the pending legislation providing for Federal participation in the cost of right-of-way and relocating public utilities incidental to construction; to the Committee on Public Works.

EXTENSIONS OF REMARKS

The Golden Years Can Be Glorious Years

EXTENSION OF REMARKS
OF
HON. SIDNEY R. YATES
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 13, 1956

Mr. YATES. Mr. Speaker, Congressmen were talking about children when I entered the cloakroom one day last week. One had remarked about how quickly children grow up today, when another Member interrupted to tell about the adolescent whose father decided that the time had come to educate him about some of the facts of life. After much hesitation, the father mustered enough courage to invite the boy into the living room, saying: "Son, you're getting on in years now. I'd like to have a good heart-to-heart talk with you about the facts of life." "Sure, dad," said the boy, "what do you want to know?"

Youth knows so much. Mark Twain used to describe his feelings toward his father in this way:

When I was 15—

He said—

I thought my father knew so little about so many things. When I became 21, however, my father suddenly became very bright. I was amazed by how much he had learned in the last 6 years.

We cherish youth in this country. We cherish youth so much that we are really quite immature in our attitudes toward our older people. We discard them, perhaps not in the same barbaric manner as some primitive tribes, which drive their older people out of the community, but our treatment is nearly as bad. Each year we consign healthy, alert men and women by the hundreds to the scrap heap and to an early physical and mental breakdown, because we refuse to recognize the fact that most of our older people want to work and can work, and that a job is the best guaranty of their self-respect and independence.

The sloughing off process begins early—at age 45 for men and 35 for women. At these early ages, according to a Department of Labor finding a few years ago, the odds are 6 to 1 against their getting new jobs even in a tight labor market. The Federal Government, which used to be one of the worst offenders in refusing employment because of age, no longer does so because of my amendment last year which prohibited the Civil Service Commission from using age as a qualification. For some time Secretary of Labor Mitchell has made a determined and worthy effort to persuade private industry to abandon its long-standing preference for young people only. I'll wager, however, that the 6 to 1 odds have not fallen very much.

At age 65 comes the culminating blow. If a person has been lucky enough to work until he reaches that age, compulsory retirement takes him out of his job, regardless of his capabilities. A few years ago I received a letter from a toolmaker in Detroit, in which he said:

I was getting along fine at my job, feeling good and doing my work well. I had worked there for 30 years and I was 64. Along came my birthday and I was out of work. I was good enough at 64; I was not good enough at 65. And yet I was the same man.

Older people are like other people in the respect that they need enough money to live on and to take care of themselves. Obviously this must come from work, savings, social security, or from some kind of public assistance. It is difficult to accumulate enough savings to retire. Most people who reach age 65 will live another 13 years, and if they want to retire on their savings, they will have to have accumulated about $17,000 in order to have an income of $100 a month for the rest of their lives. For most American families who are trying to get along on less than $3,000 per year, this amount is unattainable.

Social-security benefits, even with the increases in recent years, are still inadequate to provide a minimum standard of living. The law itself denies to beneficiaries the right to supplement their benefits by c nings of more than $100 per month, a provision which seems most unreasonable because it permits only a minimum standard of living. Until such time as social-security benefits allow a decent standard of living, beneficiaries should not be prohibited from supplementing their benefits with adequate earnings to permit them to live with independence and dignity.

Last week I filed a bill to establish a bureau of older persons in the Department of Health, Education, and Welfare, to deal with the problems of people age 65 and over. The bill also sets up a program of grants-in-aid to the States to encourage them to undertake prompt measures to train needed personnel and to lay out a course of action in handling the problems of our older citizens. The bill recognizes that primary responsibility rests with the States and local communities and that the Federal Government can only help them to help themselves.

"Grow old with me," said Rabbi Ben Ezra in Robert Browning's poem; "grow old with me, the best is yet to be." The